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THE

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CURRENT TOPICS

The New Government

WE wish the new Prime Minister and his Cabinet every success in the months which lie ahead. Sir ANTHONY EDEN has worn himself out in the service of his country and we hope that the rest which he has denied himself so long will restore him to health. We see that it is being suggested that by sending for Mr. MACMILLAN the QUEEN has somehow involved herself in party politics. This view is, in our opinion, quite wrong. Where a party has a majority in the House of Commons but no recognised leader, there is no doubt of the constitutional right of the Queen to take such advice as she may think fit and to send for whomsoever appears to have the greatest support. Whether this situation is satisfactory is another matter but, like so many other features of the Constitution, it works. Perhaps the best way out of the difficulty on such occasions, if there is a difficulty, would be to have a short interregnum under a caretaker Prime Minister, in order to enable a party with no leader to choose one.

Our Centenary

WE would like to thank all those who have written to congratulate us on reaching our centenary and on our centenary issue. We have been greatly touched and encouraged by the warmth of the messages which we have received and fear that we have a tough struggle ahead if we are to maintain the standards which our readers expect. We were delighted to see so many friends, old and new, at our party on 10th January, a full report of which appears elsewhere in this issue. We are left with the feeling that there are not enough parties and we hope that before long many others will have birthdays and other excuses to celebrate.

Fixed Dates

THE Practice Direction setting out the machinery for fixing dates for trials has now been published (see p. 85, *post*) and we congratulate the LORD CHIEF JUSTICE on being able to make this notable contribution to the saving of time. The effectiveness of the scheme depends entirely on the willingness of solicitors to make it work. It is certainly one more task for the hard pressed litigation department, but in our view any additional work which may be involved will be more than offset by the absence of the last-minute telegrams and other producers of ulcers and blood-pressure.

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Adjudication of Stamp Duties

AFTER discussions with the Council of The Law Society concerning delays in dealing with documents submitted for adjudication, the CONTROLLER OF STAMPS has explained, according to a note published in the January issue of the *Law Society's Gazette*, that these were due to circumstances outside his control such as abnormal sick leave and insufficiency of experienced staff. Training of staff, he has stated, takes time, but in the meantime he has taken steps to enable applications to be dealt with more expeditiously. In the case of deeds of gift of land, where reference to the district valuer is necessary, that action will be taken without awaiting examination of the case by the adjudicating officer. In other cases, he suggested, solicitors will assist the adjudication section and help to reduce the time taken in adjudication, if they will, wherever possible, forward with their application any valuations, documents or other information which would appear to be required for the purpose of adjudication.

Making a Living

THE *Daily Mail* on 1st January provided a useful background to our articles last week and this week on "Financing the Plunge." A half-page leading article on the financial difficulties of solicitors dealt faithfully with the present position, the rising overheads, the 50 per cent. rise of 1944 over the 1883 level of fixed litigation costs and The Law Society's statistics of solicitors' average earnings, with much additional detail. The writer, Miss RHONA CHURCHILL, painted a picture of a self-employed solicitor who, having made £2,750 in his best year after 1945, made £1,400 in 1956 and was contemplating taking a job in Rhodesia. The profession, as Sir EDWIN HERBERT so cogently explained in his article on "The Future of Private Practice" in our centenary number (*ante*, p. 5), cannot at present compete on equal terms with other avenues of employment for the best recruits from the universities and elsewhere. It is a sign of the times that the President of The Law Society recommends the payment of a living wage during articles. By implication, the *Daily Mail* article drew attention to the problem of the solicitor who leaves the ranks of those in practice for something more financially rewarding. The standards for admission to the profession are as high as ever, but the authorities and the general public must ask themselves whether those standards are likely to be maintained under present conditions. By way of postscript to our remarks last week about salaried solicitors, we would refer to a letter in the *Manchester Guardian* for 15th January in which a solicitor bemoans the fact that after being admitted for five years he is still being paid £12 per week.

Dr. Gilchrist Smith

THE name of Emmet is known in solicitors' offices as well as among enthusiasts for peculiar railways, and we are very pleased to learn that the present editor of the legal Emmet, Mr. JAMES GILCHRIST SMITH, has become a Doctor of Laws of the University of Leeds. We have a personal stake in this matter for Dr. Gilchrist Smith has been a frequent contributor to this Journal, and we offer him our cordial congratulations on his Doctorate which has been conferred upon him at the unusually early age of forty-one.

Compulsory Registration of Title: Reminding Solicitors

A PROCEDURE has been arranged, according to the January issue of the *Law Society's Gazette*, in order to remind solicitors dealing with property in Kent about the application of compulsory registration of title in a particular area. Compulsory registration is to be extended to the county borough of the City of Canterbury on 1st January, 1958, and to the other parts of Kent at different dates between 1st March, 1957, and 1st January, 1961. In the case of property in the county (other than in Canterbury) notification will be given by a tab affixed to local land charges search certificates and reading "Compulsory registration operative in this area from . . . (date)." This will be done during a period commencing three months before compulsory registration is introduced into each area and continuing up to 30th June, 1961. In the case of property in Canterbury similar notification will be given with local search certificates from 1st January, 1958, until 1st January, 1961, but not in the case of Canterbury solicitors. It is hoped to make similar arrangements in respect of future extensions of compulsory registration to other parts of the country.

Coal Mining Subsidence

UNDER the Coal Mining (Subsidence) Bill, the text of which was published on 9th January (H.M. Stationery Office, 1s. 3d.), it is proposed that a duty be imposed on the National Coal Board to carry out remedial works needed to make property damaged by coal mining subsidence reasonably fit for its original use or not less fit than at the time the damage occurred. The Bill states that the Board may, and in certain circumstances must, instead of carrying out remedial works, make payments towards costs incurred by some other person in executing works in connection with damaged property. Where the cost of remedial works would exceed the depreciation in the value of the property caused by the damage the obligation of the Board is limited to paying the amount of the depreciation. The properties covered by the Bill include land, buildings, structures, such as roads, railways, and aircraft runways, and works, such as sewers, drains and service lines and pipes. The Bill also empowers the Board to carry out emergency and preventive works. The cost, including that of repairs to small dwelling-houses under the Coal-Mining (Subsidence) Act, 1950, must be borne by the Board.

Law in Theory and Practice

PROFESSOR L. A. SHERIDAN, LL.B., Ph.D., barrister-at-law, in his inaugural lecture on 19th October, 1956, as first Professor of Law at the University of Malaya, for a summary of which we are indebted to the *Malayan Law Journal* for October, 1956, took as one of his main themes the value of theory in the building up of the practising lawyer as well as of the legislator and academic lawyer. He made the point that "the striking thing about the common law is the degree of coincidence of great theorists and great practitioners." Putting the matter at what the author called "its blatant bread and butter level," he said that advocates everywhere were to be found who have presented a case to their own satisfaction, unaware of further arguments which a more profound acquaintance with legal theory would have suggested to them. The full text of the lecture can be obtained from the Registrar, University of Malaya.

CENTENARY OF THE SOLICITORS' JOURNAL

RECEPTION AT THE LAW SOCIETY'S HALL

A LARGE and representative gathering of the legal profession was present at The Law Society's Hall on the evening of 10th January at a reception given by the Editor and Proprietors of the SOLICITORS' JOURNAL on the occasion of the paper's centenary. The guests, who were received by the Editor and Mr. K. D. COLE (Chairman of The Solicitors' Law Stationery Society, Ltd.), included the Lord Chancellor, the Rt. Hon. VISCOUNT KILMUIR, G.C.V.O., and a distinguished former holder of that great office, the Rt. Hon. VISCOUNT MAUGHAM, P.C. Also among those present were the Hon. Mr. Justice VAISEY; the Attorney-General, the Rt. Hon. Sir REGINALD MANNINGHAM-BULLER, Q.C.; and the Solicitor-General, the Rt. Hon. Sir HARRY HYLTON-FOSTER, Q.C.

The keynote of the occasion was the meeting of old friends, and it was particularly pleasing that so many of the provincial law societies were represented by their presidents. There were, too, many who had been actively associated with the SOLICITORS' JOURNAL in days past, among them three former Editors in Sir DAVID HUGHES PARRY, Mr. J. R. PERCEVAL MAXWELL and Mr. J. P. WIDGERY, O.B.E.; Mrs. ALAN MEREDITH, daughter of Henry Villers, the paper's proprietor from 1876 to 1913; and Mr. W. E. TAYLOR, who, when he retired in 1946, had completed fifty-six years' service with the JOURNAL. Representatives were there, too, of several of the firms from which the paper's original directors had come: Mr. G. A. H. BOWER (Bower, Cotton & Bower); Mr. J. CARSLAKE (Ryland, Martineau & Co.); Mr. J. W. T. HOLLAND (Laces & Co.); Mr. HALSEY JANSON (Janson, Cobb, Pearson and Co.); and Mr. T. N. WRENCH (Lowndes, Lloyd, Hilton and Wardle). In all, those who accepted invitations numbered over 250, and it was to a crowded hall that the LORD CHANCELLOR rose at 6.30 p.m. to propose the toast of "The Solicitors' Profession and the Solicitors' Journal."

Toast by the Lord Chancellor

He said:

Mr. Chairman, my Lords, Ladies and Gentlemen,—It is my happy duty to-night to propose the toast of "The Solicitors' Profession and the Solicitors' Journal." Fortunately, the two parts of my subject are so closely connected that they do, you will be relieved to hear, tend to brevity; and I always remember the best advice ever given by a non-professional adviser: that of a mother whale to her young—"Remember, you can only be harpooned when you spout!"

I should like to thank the JOURNAL for having provided me, in that article, "The Beginnings," with as admirable a brief for this speech as I have received even from old friends in this room. But before I come to the happy occasion of this centenary, I should like to say just one or two words about the profession; and, first of all, to say, with complete sincerity and from a very full heart, what happy memories I have myself over now thirty-five years when I was in private practice and since I have been in office in various capacities. I think that the friendship to which all members of the Bar can look back with those who instructed them is one of the happiest facets of our life.

And there is just one other side that I should like to register, and that is that I feel, in the solicitors' profession, that the wise advice and counsel of what is generally known, and still known, as the "family solicitor" is an indelible and valuable mark in the professional ambit. And however much we may improve, and, thanks to the SOLICITORS' JOURNAL and many other assistants, we are constantly improving, in knowledge of the law, legal experience, and a better insight into the problems of that sort, the wisdom of personal advice, the understanding of human affairs and of the human mind is, I think, one of the richest treasures of the solicitor's mental and personal archives.

But, ladies and gentlemen, to-night we primarily are looking back over 100 years, and it is true and right that one should remember the impetus that came at that time; the sense of unity and common purpose, and the new pride in the essential functions of the solicitors in the administration of justice, which has been so well noted in the Centenary Number of the JOURNAL. It seems incredible to us collected in this great hall that it was only thirty years before 1857 that The Law Society was founded; and I am sure that I am expressing the view of everyone in this room—as I certainly am expressing my own view—that it is a dear delight to us that my distinguished predecessor, Lord Maugham, the grandson of a solicitor who did so much for the foundation of The Law Society, should be with us to-night and gracing this occasion with his presence.

Among the many well-known names of the directors—the first directors of the company that started the SOLICITORS' JOURNAL, when Mr. Shaen at the age of twenty-eight found his mind bubbling over with the requirements of his professional brethren—perhaps you will allow me nostalgically to select two out of the names of many firms with which I have had the pleasure of having to deal. Those two are Liverpool names, and the first is that of Messrs. Laces and Company. Mr. Lace was one of the first directors, and Mr. Holland, of Laces, is with us to-night. The other is the firm of Lowndes, Lloyd, Hilton & Wardle, and Mr. Wrench is with us to-night. I have selected these two, not making any order of priority—except this, and I hope you will forgive it, that these were the first firms whose names appeared in papers on my own desk, when I was a junior in Liverpool—among those represented in the first directorate of the company. And that gives us the sense of continuity which I have, and so many of you here, in either your own firms or your friends.

It is, I think, remarkable and inspiring to look at the objects that the founders of the SOLICITORS' JOURNAL had in mind. They showed vision and, at the same time, a sturdy common sense. The interest of the readers was directed to the jurisprudence of other times and countries—then next, to high educational standards—and they took the highest view of not only the status but the work of solicitors in their professional activities. And also, and don't let us forget this, occasionally the Council of The Law Society, when drawing some point to the attention of the Lord Chancellor a hundred years later, repeat that these law reforms must not be instruments to impoverish and degrade the lawyers! But, gentlemen, these high standards and that broad outlook have now continued for a century. I suppose the nineteenth century was the best and happiest time for the professional man from the financial point of view—and I have in mind the admirable article of the President of The Law Society which is in the same Centenary Number. From the financial point of view, the twentieth century cannot be described as the century of

the professional man. But I do think, and I am sure you will agree with me, that that fact only emphasises that the maintenance of the standards of the profession, the doing our work and daily round according to the highest view of these standards, has become all the more imperative upon us, in order to justify the status of the professional man, and to make clear how essential he is to-day, as he was a hundred years ago. And now we are in the happy position where the SOLICITORS' JOURNAL is owned by solicitors, it is printed in a factory which is owned by solicitors, and it has the great advantage of being edited by a solicitor.

I have to-night the pleasant task of associating this toast first of all with the Vice-President of The Law Society and then with the Editor of the SOLICITORS' JOURNAL. It would only be a work of supererogation if I were to try to inform you of the high qualities of the Vice-President. I only say this: that he is a living witness of that truth that there is never lacking in the solicitors' profession a supply of men who are prepared to devote what is left of their leisure—and little leisure their busy lives allow them—to the service of their profession, of its Society, and to the maintenance of these standards I have mentioned; and it is a great pleasure for me to include the Vice-President in this toast. It is another pleasure, and I am now going to play a mean trick upon him, because he told me a story which I think ranks first of the good stories of 1956. He has probably told all of you before—but you are going to hear it again, and enjoy it, I hope—and it is a story which has a great moral effect.

It is the story of the two most foolish batmen in the Army, and their masters. The officers for whom they worked had a fierce argument as to which of their batmen was the most stupid, so eventually they decided that the only way in which it could be solved was by calling in the batmen after mess, to decide it by actual fact. So the first officer called in his batman, who appeared. He said: "Smith, here's half-a-crown; go and buy a television set." The batman replied: "Yes, sir," and left the room. The other officer said: "That's nothing; I will call my man, Tompkins." He did so, and said to him: "Tompkins, just go to the orderly room and see if I am there!" Tompkins said: "Yes, sir," and left the room.

Then the two batmen met, to decide which of their masters was the stupidest officer in the Army. Smith said: "You know, my fellow sent for me—he said 'Here's half-a-crown, go and buy a television set'—he ought to have known it was early closing day!" The other one said: "That's nothing to my guv'nor. He said to me, 'Go into the orderly room and see if I am there.' He had a telephone beside him, he could have rung up and found out!"

Obviously [*referring to the laughter and applause*] I am not far off in saying that that is one of the best stories of 1956.

I have also to couple this toast with the Editor, who is an old colleague of mine in the House of Commons, and who has many other claims to your hearty good wishes to-day. I would like to say to him that I appreciate immensely his statement of his aims and objectives at the end of the one hundred years; and I hope that I am summarising them accurately and fairly when I say this: his motto is "Inform, and reform." I hope I have understood and expressed it clearly, because there is a very sad example of one of my predecessors (not my friend Lord Maugham, but Lord Brougham) who was, after the Reform Bill, proposing a health at a great dinner, and, after he had finished this mighty oration, and when Lord Grey was girding his loins to reply, he saw that a homespun clad figure rose up as though he was going to anticipate the noble earl; and he heard someone say to this figure: "Sit down, man! The Lord Chancellor was proposing 'The majesty of the people'—not 'The magistrates of Peebles'!"

Well, I hope I have understood and expressed what I am here to propose to-night, but I should like to say this to the Editor: that I am entirely in sympathy with his views. I believe—and I feel I would carry all my political friends with me, to whatever party they may belong, in saying this—that a sound system of law and the administration of justice, the equitable application of the interplay of rights and duties, is as necessary in the modern complex, industrial, scientific State, if not more necessary, than it has ever been in our history. And it is because I am certain that the law with which we have to deal, the system of which we are small parts, can serve the modern State and can serve the citizens of that State well and truly for their happiness and comfort, that I welcome most heartily and sincerely the high purpose which your Editor has expressed. And I am certain, and I want you to express your certainty by your reception of this toast, that the hundred years of admirable work which we have seen is only the prelude to centuries of excellent and admirable work in the future.

I give you to-day the toast of "The Solicitors' Profession and the Solicitors' Journal," and I couple it with the distinguished gentlemen [*the Vice-President and the Editor*] who share this platform with me.

(*The toast was received with prolonged applause.*)

Response by Mr. I. D. Yeaman

Responding to the toast, Mr. I. D. YEAMAN (Vice-President of The Law Society) said: My Lord Chancellor, Mr. Chairman, my Lords, Ladies and Gentlemen,—I think I ought, first of all, to start with an apology for my presence here at all. I am deputising for my president, who—lucky man— I think and hope is breathing the pure and frank air of the Alps, which I trust is sufficient change from his rather unsavoury duty at Port Said just before Christmas. On his behalf, and on behalf of the profession, my lord, I wish to express gratitude to you for your expressions of esteem, expressions which I am sure have been heard with satisfaction by those present here to-night and will be read with equal satisfaction by those members of our profession who are not here with us this evening.

This, my lord, is an "Occasion"—with a capital "O." It is an occasion, as you have said, because we are celebrating the centenary of a very valuable paper; and if I might—and I don't think it will be out of place—I would like to add to your congratulations, my lord, my wishes to the Editor and to the SOLICITORS' JOURNAL.

I suppose it is a common thing that when one speaks second one very often finds what one thought was a very choice remark picked by the person who spoke in front. I have experienced that in a very minor degree to-night, and I am only going to add one thing: that, in addition to the JOURNAL's being printed, edited, owned and conducted by solicitors, its solicitor-editor also had the fortune, or misfortune, whichever way you look at it, of being a member of the teaching staff at The Law Society's School.

It is an occasion for another reason. Usually, when solicitors are gathered together (certainly in the provinces—I don't know what happens in London!) it is customary,

I believe, on these festive occasions to toast "The Bench and Bar." Well now, to me, it is a refreshing experience to have that toast in reverse!

The things you have said this evening about the profession, my lord, as I say, will often be remembered; and, if I may say so, the less deserved they are, the more pleased we will be about them.

When I was detailed for this toast, I had certain doubts about the order of precedence. I thought, after all, it is the centenary of the SOLICITORS' JOURNAL; well, let them have the limelight to begin with, and let the "Solicitors' Profession" come tagging along behind! But, on thinking it over, I feel there was some reason for it, because, after all, we solicitors and our profession provide, don't we, the raw material which affords the SOLICITORS' JOURNAL a regular income and also, I trust, provides them in turn with some modicum of profit.

Now, I have talked about "raw material," and raw material, as you all know, is a variable thing; it is not exactly constant, and it would be difficult, I think, to compare the solicitors' raw material, as embodied in the London practitioner, with that of us—the "country cousins." Because—you see the difference!—I am an example of the "country cousin." You have plenty of busy London practitioners here, and there is an apparent difference between us. I should not like you to think that really there is any difference between us in fundamentals. Both extremes—if I may use the expression—"the refined and the raw," do possess, and have to exercise, "that rare abstract quality grotesquely described as common sense"—I am quoting from one of the articles in the Centenary Number of the JOURNAL. Neither of them has a monopoly; both extremes have a keen sense of duty to the law and to their clients; and both extremes have a healthy aversion to over-legislation. In fact (again quoting from the JOURNAL), "we have to beware of being smothered by laws designed to protect us."

As an instance of that rawness and that aversion, may I go back to the year 1925, when your illustrious predecessor, the Earl of Birkenhead, performed (I have to describe this in medical jargon) what might be termed a "Cæsarean operation" upon the law of property as it then stood. The operation—like all medical operations—was successful; but, unfortunately, the patient died. Before dying, the operating surgeon managed to produce, I think, six squalling infants, as a result of this "Cæsarean"; and the consequence was that before the beginning of 1926 the law publishers *en masse* licked their chops and rubbed their hands and sent their travellers out to the far distant parts of the country. One such traveller arrived in a very remote part—I am not going to particularise it in any way, except to say that it was either on the north or south Wales border; either probably somewhere near the Island of Anglesey or in the County of Pembroke—and he was going the rounds of the solicitors in those parts and he called upon the senior partner of one of the leading firms of (shall we say) either Caernarvon or Haverfordwest. He started to do his sales talk, and the elderly gentleman listened to him for a long time and then said: "Young man, you are wasting your time." "Oh!" said the traveller, "why is that?" "Well," was the reply, "all the solicitors had a meeting in Haverfordwest only last week, and decided unanimously that the new law of property would not apply in the County of Pembroke!"

I think that, my lord, is a fair instance of both "rawness" and "aversion to change"!

I only want to add this: to repeat my thanks to you, on behalf of the profession, for what you have said about us; and to say to you that I am delighted to have received the testimonial you have given me for having told the best story of 1956.

The Editor responds

Responding on behalf of the SOLICITORS' JOURNAL, the Editor (Mr. P. ASTERLEY JONES) said: My Lord Chancellor, my Lords, Ladies and Gentlemen,—First of all, may I thank you, my Lord Chancellor, for the very kind remarks which you have made both about the SOLICITORS' JOURNAL and about myself.

You have reminded us that we were colleagues in the House of Commons for some time. As far as I recall, the last occasion on which we spoke together on the same evening was on a Bill called the Licensing Bill, which was designed to nationalise the public-houses in the new towns—a measure with which I had no sympathy whatever—and at the end of the debate, much to the mortification of my Chief Whip, I followed you, my lord, into the Opposition Lobby; and I am very happy to say that the pubs in the new towns still remain un-nationalized. I cannot, however, tell you whether they would have been better nationalized or not, because that might require me to admit that I could afford to go into them; and that would be a fact which you, my lord, might use with devastating effect next time The Law Society asked you for a rise!

We are both here this evening as ex-representatives, but I am here still as a representative in two ways: one, as a representative of the past; and, second, of the present. You have said, my lord, that continuity is the chief feature of English law. It is, of course, the chief feature of England; and a very good example of this appeared in *The Times* just before Christmas in a judgment of Lord Radcliffe—admittedly a dissenting judgment, but nevertheless, I think, true. Speaking of the common law, he said: "Its movement might not be (this, by the way, is written in the curious style of *oratio obliqua* which *The Times* still uses for its law reports) perceptible at any distinct point of time nor could it always be said how it got from one point to another; but for all that their lordships need not abandon the conviction of Galileo that somehow, by some means, there was movement that took place." When I first read that, I thought that it was a description of what happened in solicitors' offices; and, of course, I realised that it must have a close analogy with what happened in counsel's chambers!

We have four very close links with the past. My lord, you have referred to Robert Maugham, who is celebrated for three reasons: he was the first secretary of The Law Society, where we are met this evening—and I would like to thank the Council of The Law Society for their courtesy and kindness in allowing us to hold this party here. He is also the grandfather of Viscount Maugham, whom we are delighted to have with us this evening. Thirdly, he founded the *Legal Observer* which was amalgamated with the SOLICITORS' JOURNAL upon its foundation; and, therefore, we do regard him as a common ancestor.

Then, again, you have referred to the original shareholders, many of whose names still appear in firms in London and in the provinces. We have had many changes of ownership over the last one hundred years; and we are very happy indeed to have with us this evening the daughter and the daughter-in-law of Henry Villers, who owned the JOURNAL for a period of, I think, about fifty years.

And, finally, we are also very happy to have no less than three former Editors of the JOURNAL here this evening; and there is also another Editor who is still alive of the six who have held that office during the past half-century. The only Editor, so far as I can trace, who has died of those who have held office during the present century is old J. M. Lightwood; at the age of 94, he died in 1947. Therefore it appears that it is not a killing job. I have every expectation that I shall be here, at any rate as a guest, when we celebrate our one hundred and fiftieth anniversary. I think it is humanly possible, and I see no reason why I should not last as long as Lord Maugham has.

I am a representative not only of the past; although I have held office for only one-hundredth of the life of the JOURNAL, I do also represent a very small part of the present as well.

It is not always realised how large and complex is the organisation necessary to get the SOLICITORS' JOURNAL ready for Saturday morning each week. I saw that, when it was originally instituted, it was designed to enable the JOURNAL to catch the early morning trains on Saturdays so that busy solicitors could read it on the way to town. Now, of course, on this platform here, we have an absolute majority of provincial solicitors—not a single London solicitor anywhere! But I have read with some concern in the *Law Society's Gazette* this month that this building is being shut on Saturdays. Now I can only conclude that that is because all London solicitors are so confined to their offices on Saturday mornings that they cannot find the time to come along to this hall. I will assume that that is the reason, my lord—and trust that you will believe me when I say so!

Now this organisation to get the SOLICITORS' JOURNAL ready for entertaining readers on Saturday mornings involves, as I say, a large organisation. I have made some research, and I have reached the rather uncomfortable conclusion that the only person in the organisation whose absence would remain unnoticed for any length of time is myself. I speak on behalf of, first, the directors and shareholders of The Solicitors' Law Stationery Society, who carry out, if I may say so, to the letter and in the spirit, the idea of editorial independence. They open their weekly issues in their trains on Saturday mornings, with shaking hands, to see what clanger their editor has dropped that week—but they do not attempt in any way to dictate how the JOURNAL should be run, and that is as it should be.

And then our contributors, many of whom we are very delighted to have here this evening; those who run the business side of it, that is to say, who ensure that the JOURNAL gets delivered and that its advertisers turn out enough money in order to enable us to sell the JOURNAL to you at such a low price; and the printers and despatchers. It is, of course, always invidious to pick out one man, but I think that all of those whom I have mentioned would not dispute for one moment that Mr. Monahan, our Managing Editor, more than any one else, is responsible for seeing that the JOURNAL does appear every Saturday morning—and I would like to pay a tribute to him. The division of labour between the Managing Editor and the Editor is somewhat difficult to draw. Broadly speaking, the Editor is supposed to do the thinking, while the Managing Editor does the work. Now, I personally am of the school of Archimedes, in that my most constructive thought takes place in my bath—and that is always inconvenient if you want to be an executive editor. Your lordship would find it inconvenient to deliver your judgments if you had to substitute a bath for the Woolsack. I do not propose to pursue this matter any further, because there may come before you, my lord, at some time in the future, a case in which the Inland Revenue are concerned, arising out of my claim to have my domestic coke charged as a business expense!

My lord, we asked you here this evening to this party because we thought it would be better than a dinner: you can come when you like, and go when you like; you can move around and talk to the people you like; and it is possible also, with some encouragement, to cut the speeches down to a reasonable level. But we hope that you won't go away now; we hope that you will stay with us and enjoy yourselves. The evening is still young; the resources—alcoholic and otherwise—of The Law Society are very, very far from being exhausted—and the shareholders of The Solicitors' Law Stationery Society are braced to meet a nasty shock! But, my lord, if it should happen that your thirst and capacity are greatly in excess of the estimates which have been made by the board of directors, then I can think of no more appropriate occasion, and certainly no more enjoyable method, for going literally into liquidation.

Those attending the reception included the Rt. Hon. Lord Meston, the Rt. Hon. Lord Milner of Leeds, M.C., T.D., D.L., the Rt. Hon. Lord Douglas of Barloch, K.C.M.G., Sir George Coldstream, K.C.B., Sir Harold Kent, K.C.B., Sir Dingwall Bateson, C.B.E., M.C., Sir Bernard Blatch, M.B.E., Sir George Curtis, C.B., Sir Arthur Evans, Sir Sydney Littlewood, Sir Charles Norton, M.B.E., M.C., His Honour Judge Daynes, Q.C.

Mrs. B. Abrahams, Messrs. W. L. Addison, F. A. Amies, W. G. F. Ballantyne, E. Barrett, W. R. E. Borregaard, John Burke, A. M. Carey, A. Carreras, John Cherry, C.B.E., H. J. B. Cockshutt, R. P. Colinvaux, D. Freeman Coutts, F. H. Cowper, A. W. Dickson, S. G. G. Edgar, H. J. Elliott, J. M. L. Evans, M.B.E., Miss M. FitzGerald, Messrs. J. G. Fleming, J. F. Garner, J. A. Gibson, F. G. Glover, Professor L. C. B. Gower, Messrs. G. B. Graham, P. Halliday, R. N. D. Hamilton, T. Harper, Desmond Heap, G. F. Higginson, W. Holden, D. R. Holloway, R. E. G. Howe, F. G. Hudson, Miss M. Hugh-Jones, Messrs. B. Gammon, R. L. Hurst, N. K. Hutton, C.B., Barnett Janner, M.P., J. F. Josling, W. B. Langford, N. P. R. Lockyer, Bertram Long, M.C., T.D., G. J. M. Longden, M.P., M. H. Lush, M. W. Maxwell, R. E. Megarry, Q.C., L. W. Melville, Hector Munro, John Murray, D. Napley, G. H. Newsom, Q.C., R. B. Orange, J. D. Pennington, R. R. Pennington, C. W. Ringrose, J. L. R. Robinson, Roy Robinson, C. M. Schmitthoff, D. C. Sealy-Jones, M. Share, C. Reid Sharman, S. S. Silverman, M.P., B. J. Sims, Miss A. Smith, Messrs. J. Gilchrist Smith, R. Hilary Stevens, O. Terry, Mrs. H. V. Toogood, Messrs. J. F. Turing, G. H. C. Vaughan, Mrs. G. M. Villers, Messrs. P. A. Waterlow, B. N. E. Wilson, W. J. Wyse.

The following members of the Council of The Law Society, in addition to those already mentioned: Messrs. Eric Davies, L. E. Peppiatt, M.C., A. J. Driver, G. F. Pitt-Lewis, M.C., B. E. C. Ogle, Frank Miskin, M.C., G. W. R. Morley, T. L. Dinwiddy, and F. C. Stigant; and Mr. T. G. Lund, C.B.E., and members of the staff of The Law Society.

Provincial law societies were represented by their presidents as follows: Messrs. G. Day Adams (Associated Provincial), P. R. Allen (Notts), F. G. Beckett (Hastings), W. O. Carter (East Anglian), H. H. Cooke (Luton), G. A. Ealand (Herefordshire, etc.), C. E. J. Freer (Leicester,) J. E. Humphrey (Worthing), L. Mark Liell (West Essex), S. O. Matthews (Kent), J. H. Openshaw (Bolton), H. E. Rowe (Durham and N. Yorks), E. Simons (Pontypridd), G. S. Smith (Mid-Surrey), P. S. Stowe (Bromley), J. C. Barry Thompson (Lincolnshire), H. W. Timms (Derby), E. G. Trant (Carmarthen), R. D. Whittingham (Isle of Wight).

A number of members of the proprietors' staff, representing departments concerned in the production of the SOLICITORS' JOURNAL, were also present.

[*Pictures on pp. 79 to 82.*]

FINANCING THE PLUNGE—II

LAST week we described some of the implications of putting up a plate. Those who are unable or unwilling to venture on this perilous path will have to fall back on buying a partnership in an existing firm or buying a succession. The important fact to remember about buying a succession is that insurance companies and other sources of commercial loans will not normally make advances on the security of a practice whose ownership is changing entirely. Obviously the good will of a firm of solicitors depends not so much upon the location of the office as upon the personality of the partners, and a one man practice which looks good on paper may be found to evaporate when the new owner takes over. For the same reason that commercial lenders will not make advances on the security of one-man practices, the intending purchasers of such practices should be extremely wary and should insist on a fairly long period of co-operation before the retiring partner goes.

Buying a partnership

We now turn to the question of buying a partnership in an established firm and, as with successions, it is essential to obtain expert advice and a report by accountants unless the firm is well known to the intending purchaser. So far as our necessarily superficial investigations reveal, the supply of partnerships is roughly balanced by the demand, although both firms and intending partners may find that a very long time elapses before they are settled. The openings may well be there but not in the right place at the right time for the right person. It seems that the usual custom at the present day is for a share in a partnership to be valued at between two and three years' purchase of the net profits averaged over the previous two or three years. Thus, if an intending partner requires a share which will produce him an income of £2,000 per annum, he will have to find at least £4,000. This figure will be modified according to the value of any work which the intending new partner can bring into the firm. It seems that most firms require payment for the share of the goodwill to be made forthwith, although some firms have some scheme whereby payment can be made by instalments over a number of years by way of deduction from the new partner's share in the profits. Among firms of accountants in particular, schemes are becoming increasingly popular whereby goodwill is not valued at a capital sum. Outgoing partners in such firms are not entitled to any capital payment nor are incoming partners required to make any capital payment. Instead, it is provided in the partnership deed that retiring partners continue to draw annuities and incoming partners join on the terms that they will in due course be entitled to annuities. Among solicitors this type of scheme does not appear to be so widespread, but we understand that it is growing in popularity. The diminution in the number of solicitors who are able to raise substantial amounts of capital makes it necessary for new methods to be devised and this is certainly one which could be used with advantage.

Borrowing the capital required

It is possible to raise the necessary money to buy a share in the goodwill of an existing partnership from relatives or from one of a small number of insurance companies which specialise in this type of business. It must be remembered that, in addition to paying for the share of the goodwill, the new partner will probably be required to buy his appropriate share of the physical assets of the partnership; he should also make careful enquiries about when he will be able to start drawing on the profits and make the necessary arrangements to tide himself over until he can begin to draw something on account. These additional liabilities are sometimes overlooked and they add considerably to the financial burden which a new partner undertakes. An insurance company may be prepared to advance up to 75 per cent., or even 80 per cent., of the reasonable purchase price of the goodwill of a partnership share. If we assume that £4,000 is the reasonable price to pay for a share to produce £2,000, the insurance company would, therefore, be prepared to advance £3,000 leaving the new partner to find £1,000, plus his share in the physical assets, plus enough ready money to tide him over until he starts to draw his share of the profits. Such a loan is secured on his share in the partnership together normally with an endowment policy for the period of the loan. The practice is for such loans to be repayable over a period of fifteen, or possibly twenty, years. An alternative to the endowment policy is for equal quarterly instalments of capital to be repaid provided that the whole amount of the advance is covered by a whole life policy. The present rate of interest on loans of this kind is normally 6 per cent., so that under the endowment scheme the annual outlay for each £1,000 of the advance would be in the region of £125 before the deduction of income tax. The premium on the endowment policy would be approximately £62, the gross interest would be £60 and in addition it is normal to require the intending borrower to take out a continuous disability policy which is added to the security and which becomes available to cover the interest and premiums in case of illness. Thus, if the advance were £3,000 there would be a gross annual outlay of £375, which would be diminished to some extent by the deduction of income tax from the payment of interest. This burden would last for fifteen years, and clearly makes a substantial hole in an annual income of £2,000, although only the least enterprising would assume that he could not increase his income.

It must not be assumed, however, that insurance companies are willing to lend on these terms in respect of every practice. We have already pointed out that they will not lend to a sole partner; the normal practice is to require that there shall be at least two active partners and obviously the personal qualities of all the partners must be of the highest. In addition, insurance companies will not lend if the practice is one sided, or if a large part of it depends upon one client or type of client. A large retainer, for example, from a big company may well be profitable, but too many eggs are in one basket and an insurance company would certainly make a considerable reduction in the amount they are willing to lend to allow for this. Again, we believe that insurance companies are not enthusiastic about firms in which more than 50 per cent. of the profits are derived from litigation. In other words, the more the burden of the firm is spread among partners and the more varied the type of work which the firm does, the more pleased are insurance companies contemplating loans.

General considerations

According to a recent article in the *Financial Times* Survey of Careers, figures show that in 1950 approximately one-third of the solicitors practising on their own account or in partnership earned more than £2,000 per annum, one-third between £1,000 and £2,000 and the remaining one-third under £1,000.

We refrain from comment on these figures, but we cannot see that it is of very much advantage for a solicitor to go into partnership or to practise on his own unless he can look forward within a short period of beginning to receiving an income substantially in excess of £1,500 per annum.

The upshot seems to be that if a solicitor is to be his own master and if he is not in the line of succession to a partnership by inheritance or good fortune, he should first gather together between £750 and £1,000. It is unwise to begin on less, though many have done so and survived.

There is, however, a tendency for young men to regard it as their first duty to themselves and to their families to sink what capital they have into buying a house. Those who think this way should ponder upon the Parable of the Talents. The man who invests his one talent in buying a house has security, but his talent is buried in the ground. Those who invest whatever money they may have in themselves by buying a partnership have the opportunity to use their talents to produce an hundredfold.

P. A. J.

ARBITRATION UNDER INSURANCE POLICIES

THE British Insurance Association and Lloyd's have announced in a circular letter dated 11th January that their members have entered into an agreement in respect of United Kingdom business, the general effect of which is to allow an assured, who prefers to have questions of liability, as distinct from amount, determined by the courts, to do so notwithstanding that the policy contains an arbitration clause.

The insurers, states the letter, have defined their intentions as follows :—

"If in any dispute arising under a contract of insurance made in the United Kingdom the assured brings an action in any court in the United Kingdom, the insurers will, notwithstanding that the contract contains an arbitration clause, not apply to the court for a stay of the action on that ground unless—

(1) the whole of the dispute relates to the amount of the claim, liability being admitted ; or

(2) the dispute relates partly to liability and partly to amount and the assured refuses to give an undertaking that, in the event of the insurer being found liable, he will agree to any dispute as to amount being determined in the manner provided in the arbitration clause.

Nothing in the foregoing shall apply—

(*a*) to a contract of reinsurance ; or

(*b*) to a contract of marine insurance ; or

(*c*) to a contract which is an insurance of all or any of the following risks relating to aviation, namely, loss of or damage to aircraft, liability of the assured to third parties or to passengers, and loss of, or damage to, or liability in respect of, cargo consigned by air ; or

(*d*) to a contract of credit insurance ; or

(*e*) where the terms of the insurance are set out in a contract or policy which is specially negotiated and in which an arbitration clause has been specifically agreed."

This is a fundamental and far-reaching departure from the practice hitherto, as was pointed out in *The Times* of 15th January. Marine insurance apart, nearly all policies made here have embodied an arbitration clause. Insurance cases rarely come into open court, and a good deal of insurance law is obscure, as precedents for much of it have to be found in cases decided abroad ; insurance law in this respect is in startling contrast with other branches of English commercial law, such as shipping law, which is, in general, much more clearly defined than that of other countries.

The advantage to insurers of arbitration is obvious. English law is harsh on the assured. The slightest mis-statement, for instance, by him—however irrelevant to the loss—will provide the insurance company with a ground for repudiating their liability, if the statement in question has been given the force of a warranty by the policy. But to do so in public, in open court, might be disastrous to their business, as some motor insurance companies have found to their cost.

It is to the great credit of insurers that they have now agreed to waive an unfair weapon—by which they could in the last resort take technical points to evade liability in secret. It is not unreasonable that questions of amount should be reserved for arbitration—it is rarely essential to resort to lawyers merely to determine that kind of issue. But judges should, and now will, determine disputed points of insurance law. Both the law and the public should benefit from this generous, self-imposed reform. At last, it appears, the commercial public is beginning to see the advantage, in appropriate cases, of litigation over arbitration.

WORLD COPYRIGHT LAWS AND TREATIES

Laws and treaties relating to copyright, in force in all the countries of the world, are now available for reference in a single volume. Published jointly by Unesco and the Bureau of National Affairs, Inc., Washington, D.C., U.S.A., "Copyright Laws and Treaties of the World" can now be obtained on order from H.M. Stationery Office or direct from the Unesco Distribution Division, 19 Avenue Kléber, Paris, 16, price £30. It was compiled with the co-operation of the Copyright Office of the United States of America and the Industrial Property Department of the British Board of Trade. The 1,800-page work contains not only the laws, decrees and orders existing in eighty-five States in the world, but also the texts of multilateral conventions and bilateral treaties in force up to January, 1956. The book is presented in loose-leaf form. It is intended to issue supplemental information from time to time which can easily be added for reference.

In addition to the names given in the list of New Year Legal Honours published at pp. 66 and 67, *ante*, the three following have been brought to our notice :—

ORDER OF THE BATH—C.B.

Brigadier JOHN ALEXANDER LONGMORE, C.B.E., T.D. Admitted in 1922.

C.B.E.

EDWARD CALCOTT PRYCE, Esq., O.B.E., Alderman, Ward of Cripplegate, since 1948. Admitted in 1914.

O.B.E.

Lieut.-Colonel CECIL THOMAS ASHWORTH BEEVOR. Admitted in 1922.

REPUDIATING A CONTRACT FOR DEFECT IN TITLE

It is well-established law that, subject to any specific terms in the contract of sale, the purchaser of land is entitled to repudiate the contract upon the vendor's failure to show and prove a good title. This right arises so soon as the defect of title is definitely ascertained, either from the abstract or from the vendor's replies to the purchaser's requisitions, unless the defect is slight and can be properly met by compensation. If, however, the purchaser is to be allowed to repudiate, he must act immediately or "with every reasonable despatch" and the repudiation must be clear and definite (*Re Harles and Hutchinson's Contract* [1920] 1 Ch. 233; *Berners* v. *Fleming* [1925] Ch. 264).

If the purchaser fails to act promptly (except without prejudice to his right to repudiate) and enters into negotiations with the vendor so as to treat the contract as subsisting, he cannot then repudiate at any subsequent moment he may choose but must give the vendor a reasonable time to remedy the defect (*Murrell* v. *Goodyear* (1860), 1 De G.F. & J. 432, at p. 449; *Halkett* v. *Dudley* (*Earl*) [1907] 1 Ch. 590, at pp. 597, 600; *Elliott* v. *Pierson* [1948] 1 All E.R. 939, at p. 942). What is a reasonable time depends, of course, upon the circumstances of a particular case, and in *Halkett* v. *Dudley, supra*, Parker, J., said that the purchaser's "only safe course was to limit the time within which the defect must be removed and a title made out, if the contract was to go through."

In *Manning* v. *Turner and Another* [1957] 1 W.L.R. 91; *ante*, p. 46, two questions within the general scope of these principles fell to be determined by the Chancery Court of the County Palatine of Lancaster; on one of which there appears to be no precise authority, whilst, in the case of the other, the application of the principles enunciated presented some difficulty. These were the facts:

Title dependent on gift by living donor

On 14th October, 1954, the plaintiff bought a house at auction for £500, the title beginning, by special stipulation, with a conveyance of 7th September, 1931. Part of the house was tenanted, but possession of the vacant rooms was to be given on completion, the date for which was to be "1954." The abstract disclosed that the defendants' title depended on a deed of gift to them dated 16th October, 1953, by a donor who was still living. On 26th October, 1954, the plaintiff's solicitors, by requisition, requested an insurance policy indemnifying the plaintiff against the charge for estate duty on the property which might arise if the donor died within five years of the date of the deed of gift. The defendants, by their solicitors, refused, but offered to enter into a covenant in the conveyance, or separately, in indemnification of the plaintiff. By letter dated 8th November, 1954, and again by telephone on 8th December, 1954, the plaintiff's solicitors said that unless the indemnity policy was provided the plaintiff was not prepared to proceed with the purchase and would require the return of her deposit. On 9th December, 1954, the defendants' solicitors wrote saying they were enquiring the terms on which an insurance policy could be obtained, and would write again shortly. By 21st December, 1954, no further communication from them having been received, the plaintiff rescinded the contract and claimed the return of her deposit. The defendants then offered an insurance policy to the full amount of the purchase price and served notice to complete. The plaintiff brought an action for rescission and return of the deposit, and the defendants counter-claimed for specific performance.

Insurance cover against liability for estate duty

Sir Leonard Stone, V.-C., said the first question, on which there was no case in point, was whether the plaintiff was justified in adopting the attitude she did. He held she was. The contract contained no mention of or special condition concerning the deed of gift, or of the contingent claim for estate duty. Applying the test whether, in an action for specific performance at the instance of the vendor, the court would force a title containing the alleged defect on an unwilling purchaser, he thought they would not, unless the defect were first removed by an insurance policy against the risk involved.

Earlier view of The Law Society

In 1947 (see the *Law Society's Gazette*, July, 1947, p. 132) the Council of The Law Society considered this very same problem and said that in their view there was no wholly satisfactory method of providing for such prospective liability, except by obtaining from the vendor a covenant to indemnify fully. An attempt might be made to reflect the purchaser's possible liability in the price, or to protect him by insurance. These alternatives, however, were open to the objection that in most, if not all, cases the ultimate extent of the liability could only be a matter of conjecture.

The learned judge, however, was influenced by the fact that the death of a particular person before a particular date is a calculable risk in respect of which insurance companies issue cover policies every day.

There can be no doubt regarding the liability to estate duty of the property originally given. In a revised ruling dated 18th March, 1954, occasioned by the decision of the House of Lords in *Sneddon* v. *Lord Advocate* [1954] A.C. 257 the Board of Inland Revenue stated that, in future, the estate duty in respect of property taken under a disposition purporting to operate as a gift *inter vivos* would be regarded as imposed upon the property donated and not in respect of the proceeds of sale or exchange or the reinvestments thereof, as under an earlier ruling.

Emmet on Title, discussing the subject in the 14th ed., Vol. II, at p. 559, says: "... it is advisable, before contracting to purchase freeholds, to inquire whether there has been, within the last five years, any gift or other disposition not for value. Unfortunately, there does not appear to be any means of ascertaining, in advance, the amount of duty that may become payable on the donor's death. If the possible liability is ascertained after contract, it may be arguable that the title cannot be forced on the purchaser." Any doubt on this score, for the present at all events, is now set at rest by the present decision.

Whether repudiation valid and operative

The second question to be decided was whether the repudiation or rescission contained in the letter of 21st December, 1954, was valid and operative. The defect of title was of an unusual character. Unlike the obtaining of the concurrence of the heir-at-law, or the removal of a restrictive covenant, or the getting in of an outstanding reversion, it was a defect which could not be righted because nothing could, before 16th October, 1958, get rid of the

contingent charge of estate duty, except the death of the donor and the payment of the duty. The plaintiff's solicitors had required the insurance cover as soon as they discovered the deed of gift and the contingent liability; and when the defendants refused to provide it they made the plaintiff's attitude perfectly clear, and did so without delay. That, said the Vice-Chancellor, was not the same as entering into negotiations to adjust the defect in such a way as to amount to a waiver of the right to repudiate. It might have been wiser if the plaintiff's solicitors had served a notice on the defendants setting a time limit, but from 26th October to 21st December was a reasonable time and for the reasons given the plaintiff was entitled to a declaration that the contract was rescinded, and to the return of her deposit.

K. B. EDWARDS.

Landlord and Tenant Notebook

BUSINESS PREMISES: DATE OF INTENTION TO RECONSTRUCT

THREE questions were examined in *Betty's Cafés, Ltd.* v. *Phillips Furnishing Stores, Ltd.* [1956] 3 W.L.R. 1134; 100 SOL. J. 946 (C.A.). The first concerned the difficult and delicate matter of proving a company's intention; not a specifically landlord-and-tenant matter, and fully dealt with in articles which appeared in this journal on 22nd September and 24th November last (100 SOL. J. 695 and 851). The second was an equally important one: at what point of time must a landlord, who wishes to avail himself of the intention to demolish or reconstruct his premises as a ground for possession or for resisting a claim for a new tenancy, hold that intention? The third related to the term of a new tenancy which a court should, in its discretion, order.

When

By the Landlord and Tenant Act, 1954, s. 30 (1) (*f*), a landlord may oppose an application for a new tenancy (and by s. 24 may give notice to terminate a tenancy) on the ground "that on the termination of the current tenancy the landlord intends to demolish or reconstruct the premises comprised in the holding or a substantial part of those premises or to carry out substantial work of construction on the holding or part thereof and that he could not reasonably do so without obtaining possession of the holding."

The applicants in *Betty's Cafés, Ltd.* v. *Phillips Furnishing Stores, Ltd.* had carried on business on the same premises, under a series of successive leases, since 1925. The last lease granted before the application was granted in 1946, to run for eight years. The respondents bought the reversion in 1953, soon after which the applicants obtained an order for a twelve months' tenancy under the Leasehold Property (Temporary Provisions) Act, 1951. The Landlord and Tenant Act, 1954, Pt. II, took over in due course; and on 28th June, 1955, the applicants served a request for a new tenancy under s. 26. By the last subsection, subs. (6), "Within two months of the making of a tenant's request for a new tenancy the landlord may give notice to the tenant that he will oppose an application to the court for the grant of a new tenancy, and any such notice shall state on which of the grounds mentioned in s. 30 of this Act the landlord will oppose the application." And on 15th August the respondents served a notice stating that "on the termination of the current tenancy the company intends to . . . reconstruct the premises comprised in the holding, etc."

At first instance, Danckwerts, J. (i) found, on 7th May, 1956, that on 15th August, 1955, the respondents had not had the intention to reconstruct, and (ii) held that their having held such intention at the date of the hearing would not entitle them to oppose the application. In the Court of Appeal, his decision was reversed by a majority, Evershed, M.R., being the dissentient.

Common sense

As might be expected, the minority view was based primarily on the "plain language" test. "The relevant word is 'intends,' a simple English word of well-understood meaning. The question whether the intention is at the relevant date proved has, in my judgment, to be answered by the ordinary standards of common sense" Evershed, M.R., said early in his judgment; and later: "If I am told by my landlord that he will oppose any application that I may make on the ground that on the termination of my tenancy he 'intends to reconstruct' the demised premises, I confess that I should, myself, assume without hesitation that he so intended when he gave me notice."

The learned Master of the Rolls did, however, consider that—as a matter of common sense—a landlord would not be entitled to rely on an intention at the date of service of his notice if there were difficulties, such as lack of finance, which made any such intention conditional.

Birkett and Romer, L.JJ., while agreeing in remitting the case (for a determination as to fixity of intention at the later date), approached the main question in rather different ways.

The interval

Birkett, L.J., was primarily influenced by the fact that, in every case in which opposition is notified, time must elapse before a court is called upon to decide whether or not to order a new tenancy. The learned lord justice examined the seven grounds of opposition set out in s. 30 (1). Suppose that the landlord complained of disrepair; was the tenant's claim to be defeated though he had fully complied with his obligations when the application was heard? Non-payment of rent: could not a court listen to evidence to show how completely the situation had changed? Other breaches, or reasons connected with management: suppose those reasons had vanished?

In the first three cases, the relevant paragraph said "that the tenant ought not to be granted a new tenancy in view of": the court had a discretion, and this must be exercised on the material before it at the hearing. In the other cases, which are offers of alternative accommodation, intention to let divided premises as a whole, intention to demolish or reconstruct, and intention to occupy for own business or as own residence, again the court must,

[*continued on p.* 84

OUR CENTENARY

The Reception at The Law Society's Hall 10th January, 1957

The Lord Chancellor, the Rt. Hon. Viscount Kilmuir, G.C.V.O., is welcomed by the Editor

The Rt. Hon. Viscount Maugham, P.C., with Mr. J. W. T. Holland, of Laces & Co. (Liverpool)

Lord Kilmuir proposes the toast of "The Solicitors' Profession and the Solicitors' Journal" . . .

. . . to an attentive audience

Mr. I. D. Yeaman and Mr. P. Asterley Jones respond

(Below) The Lord Chancellor enjoys a joke with the Attorney-General, the Editor and Mr. C. P. L. Whishaw

Expressions caught by our cameraman :
(above) Lord Milner of Leeds ;
(right) Lord Douglas of Barloch

The Attorney-General and
Mr. Francis J. Holroyde, M.C.,
Managing Director of The Solicitors' Law
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continued from p. 78

Birkett, L.J., concluded, decide on the material before it at the date of the hearing, though the whole history must be considered when deciding on whether the requisite intention had been satisfactorily established.

The requisite intention

It was this "intention" factor which mainly influenced Romer, L.J. We have, of course, already had a good deal of authority on this question of intention, which has to be genuine, settled, and fixed (see 100 SOL. J. 217, 446, 628), and Romer, L.J.'s point was that if, say, a tenant requested a tenancy to commence as long ahead as s. 26 (2) provided for, the landlord would have to make up his mind once and for all some ten months before he could carry out his decision. And it would not, in the learned lord justice's opinion, in any way prejudice a tenant if his landlord had formed no more than a provisional or qualified intention when the tenancy came to an end, or, indeed, had formed no intention about it one way or the other.

Comment

Once cannot escape the feeling that the majority judgments do something like re-writing the Act. The difficulty is partly due, in my submission, to the double use to which s. 30 (1) is put: the grounds are available both when the tenant makes his application by way of reaction to a landlord's notice to terminate (s. 25) and when he applies after himself making a request (s. 26). The latter is possible only when the tenant holds, or originally held, a fixed term tenancy, but when it is made (as was the case in *Betty's Cafés, Ltd.* v. *Phillips Furnishing Stores, Ltd.*), the "on the termination of the current tenancy" which is referred to in paras. (*e*), (*f*) and (*g*) does not, if the tenant held, but no longer holds, a fixed term (as in that case), indicate any particular time.

Then, contrasting the position with that which obtains when a landlord of a controlled dwelling-house seeks possession: the machinery adopted by the legislature in rent restriction matters has, of course, made the date of the hearing the vital one: the cause of action is the determination of the tenancy, but the landlord has to show that the court has jurisdiction (*Benninga (Mitcham), Ltd.* v. *Bijstra* [1946] K.B. 58 (C.A.)). But where the ground is "any rent lawfully due . . . has not been paid" (Rent, etc., Restrictions (Amendment) Act, 1933, Sched. I (*a*)) it has been held that satisfaction of arrears after plaint issued will not avail the tenant: *Brewer* v. *Jacobs* [1923] 1 K.B. 528. Which makes one wonder whether the said legislature meant to allow a court to consider, in a new tenancy of business premises case, that the interval had given the tenant a *locus pœnitentiæ*, entitling him to say (as Birkett, L.J., put it) "Happily the trouble is over" and disentitling the court to answer "It is too late."

Again it would seem, if Romer, L.J.'s "formed no intention about it one way or the other" be sound, that we may find landlords going one better than, or perhaps one might say, six better than, Ahab and serving notices to terminate or counter-notices to requests setting out all of the seven grounds in s. 30 (1).

Length of new tenancy

At first instance, Danckwerts, J., having held that the landlords' opposition failed because they had not proved intention at the date of their counter-notice, made an order for the grant of a fourteen-year tenancy—the term asked for. The Court of Appeal were unanimous in holding that if, after the re-hearing, the learned judge should find that the intention had existed on 7th May, 1956, the term of the new tenancy ought to be five years. Two reasons were assigned: fourteen years was the maximum, and the tenants had never held a lease for more than eight years; and then there was s. 30 (1) (*g*), the "intention to occupy for own business" ground, the facts showing that this was what the landlords really wanted (their having bought the reversion in 1953 and the proviso in s. 30 (2) preventing them from relying upon it).

R. B.

HERE AND THERE

THE EMPTY PLATE

ONE is accustomed to read recurrent articles in the newspapers describing with envious sensationalism the feather-bedded financial ease of the lawyers, whose favourite exercise, it would seem, is rolling in money. Most of these accounts are elaborated from wild surmises of the earnings of two or three silks who happen to be in the newsman's eye, worked out on the principle of: Think of a golden number; double it. It was therefore something of a surprise to find the Fleet Street wind blowing chillingly in the contrary direction lately. "Barristers Face a Lean Time in New Year," said one headline. True enough, Queen's Bench litigation had fallen from a waiting list of 1,276 cases in October, 1955, to somewhere round about the 600 level last October, and now twenty-one of the judges are leaving the Strand for the circuits. The Chancery judges, even with the accretion of the Revenue list, find it hard to fill in their time and save themselves from being seconded to common-law duties. One, in arranging his list, is said to work on the principle—

> "A summons a day
> Keeps the Queen's Bench away."

To please the customers and tempt them back to High Court litigation by greater speed, convenience and economy, something is hoped of the scheme for fixing precise dates of hearing. They say that a system of that sort works well enough in Scotland. According to the Scots, the main thing is not to get over-worried and upset if, occasionally, a judge finds he has a blank day with no case to try at all. But, then, no one would worry except someone who imagined that a judge can't be doing any work unless he is actually sitting in court. Can't he? Remember his reserved judgments which have to be written some time and the mountainous accumulation of professional reading which he ought to digest if he is to keep himself "learned." The increased jurisdiction of the county courts has, of course, produced a corresponding drain away from the High Court and this must have affected the Bar, but not perhaps as much as one might have expected. While the reaction in some firms of solicitors was that now it would be worth while to take in a partner specialising in advocacy, others swore that no sensible solicitor ever wasted his time hanging about county courts when he could be so much more profitably employed in the office. The Bar Council has just issued a rather stern pastoral letter against "touting" and

personal advertisement. But, despite all discouragement and darkening skies, many still hear in their hearts the call to the Bar. Strangely enough, two blind men, one at the Middle Temple and one at Gray's Inn, have just succeeded in passing the final examination.

SOLICITORS' WOE

SOLICITORS are, of course, less affected than the Bar by a drop in litigation. It is not every ailment that ends up in the operating theatre, nor every quarrel or legal transaction that ends up in the courts. But Fleet Street is realising that the solicitor's profession is not the golden road to opulence that some people suppose, and a recent sympathetic newspaper article told the sad story of "a typical middle-class, middle-aged, middle-income, middle-sized-town solicitor" who is being forced by circumstances to sell his practice for half of what he paid for it on leaving the army ten years ago and to emigrate with his family to Rhodesia. Since his best year, in which his profits were £2,750, they have dropped steadily to £1,400, and higher rates and office expenses are likely to push them down still further. As the writer of the article points out, "most fixed litigation charges have not risen since 1944 and are only 50 per cent. higher than in 1883 . . . His fixed fee for a full day's work in court is four and a half guineas." All in all, until he has paid the office wages of £45 a week he never knows whether he will have anything left for himself. The picture is perhaps exceptionally gloomy, but a third of England's solicitors earn less than £1,000 a year, while another third, earning more, still fall below sur-tax level. This sympathetic survey is a pleasant change from the usual layman's portrait of the rapacious, unjustly enriched lawyer.

UP ALOFT

IN the upper regions of the legal profession there are changes and rumours of changes. The sudden death of Singleton, L.J., following so quickly on the resignation of Birkett, L.J., will alter the character of the Court of Appeal considerably. At the moment of writing only one replacement has been announced; Sellers, J., becomes Sellers, L.J., and will considerably strengthen the tribunal in its commercial work. The lawyers have a strong case in attempting to bring commercial men back to the normal processes of litigation. Litigate; don't arbitrate. In a recent shipping case which started with a dispute in January, 1951, and reached the House of Lords in December, 1956, the Law Lords observed that the lapse of time was due, not to the law's delays, "but to the failure of the parties to avail themselves of the facilities provided for the speedy hearing of commercial suits involving questions of law." (They had gone all the way round by umpire, trade association appeals committee, case stated and the rest.) With three octogenarians or near-octogenarians on the Bench other changes would seem to be not incalculably remote, but Lord Goddard, at any rate, seems as vigorous as ever. One respectfully commends to him old Lord Esher's mode of replying to rumours of his impending resignation from the Mastership of the Rolls; he bought a new wig. Two careers which have taken somewhat unforeseen turns are that of Devlin, J., appointed President of the new Restrictive Practices Court and that of Sir Walter Monckton, quietly elevated to the peerage. But both are still available to hearken to other calls, should occasion arise.

RICHARD ROE

PRACTICE DIRECTION

QUEEN'S BENCH DIVISION

FIXED DATES FOR NON-JURY ACTIONS

1. It is intended that four Judges should be available each Sittings to take cases for which fixed dates have been given.

2. Four lists will be kept by the Clerk of the Lists and cases will be put in any one of the four in which there is a vacant date convenient to the parties but no list will be allocated to a particular Judge.

3. As soon as a case is set down it will be entered in the General List. Subject to para. 9 hereof a party may then apply to the Clerk of the Lists for a date on giving notice to the other side and after obtaining an appointment from the Clerk of the Lists. The notice should state the date proposed by the party giving it, who should also state the estimated length of trial. The party to whom notice is given may suggest an alternative date and he also should give his estimate of the length of trial. Suitable forms of notice may be obtained at the office of the Clerk of the Lists. If neither party has applied for a date within four weeks of setting down, the case will remain in the General List subject to para. 8 hereof. If an order for a speedy trial has been made the party who applied for a speedy trial shall apply to the Clerk of the Lists for a date within one week of the making of the order and shall give notice of the date on which he will apply to the other party or parties. It is most desirable that the views of Counsel as to the probable length of a case should be ascertained.

4. When the application is made to him the Clerk of the Lists shall, in default of any agreement between the parties, fix a date, but either party may, on giving two days' notice to the other side, apply to the Judge in Charge of the Lists to vary the date so fixed. An application to the Judge must be made within a week of the application to the Clerk of the Lists, and the Judge may vary the date fixed by the Clerk of the Lists or may order the case to remain in the General List. Where a date is given for a case estimated to last three hours or over no other case will be entered in the same List for that day.

5. When any fixed case is settled or withdrawn it shall be the duty of the Plaintiffs' solicitors so to inform the Clerk of the Lists and a reasonable fee may be allowed on taxation for doing so. When a date has been vacated the parties in any case fixed for a later date may, if they agree, apply for their case to be fixed for the date so vacated.

6. A list will be posted outside the office of the Clerk of the Lists (Room 419) showing the fixtures for each day as they are allocated and the free dates. The list will be brought up to date each day at or after 4 p.m.

7. Once a date has been fixed no alteration except on an application to take an earlier vacated date will be granted without the leave of the Judge in Charge of the Lists. Leave to alter a date by postponement will be given only on exceptional and urgent grounds. The Judge may in any case order as a condition of postponement that the case should go into the General List. The parties may at any time agree that a fixed case should go into the General List and they must then inform the Clerk of the Lists and the fixed date will be vacated.

8. At any time before a case in the General List has appeared in the Warned List for the week the parties by consent may apply for a fixed date.

9. This scheme will not apply to cases already appearing in the printed list for the week ending Friday, 18th January. Applications on special grounds in respect of those cases must be made to the Judge in Charge of the Lists. Applications may be made on or after 14th January to fix a date for any other case already set down. No application to fix a date for a case not already set down will be entertained before Monday, 11th February, unless an order for a speedy trial has been ordered.

GODDARD, C.J.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note.

House of Lords

SALE OF GOODS: TEMPORARY PROHIBITION OF EXPORT OF COMMODITY: WHETHER SELLERS EXONERATED BY FORCE MAJEURE CLAUSE

Fairclough, Dodd and Jones, Ltd. *v.* J. H. Vantol, Ltd.

Viscount Simonds, Lord Goddard, Lord Morton of Henryton, Lord Tucker and Lord Somervell of Harrow. 5th December, 1956

Appeal from the Court of Appeal ([1955] 1 W.L.R. 1302; 99 SOL. J. 888).

A written contract in a standard form of the London Oil and Tallow Trade Association dated 27th November, 1950, for the sale of 100 tons of Egyptian washed cotton-seed oil to be shipped during the months of December, 1950–January, 1951, from Alexandria at a price of £146 10s. a ton c.i.f. Rotterdam, contained the following clause: "Should the shipment be delayed by . . . prohibition of export . . . or any other cause comprehended in the term *force majeure* . . . the time of shipment shall be extended by two months. Should the delay exceed two months, buyers shall have the option of cancelling the contract forthwith or accepting the goods for shipment as soon as possible. . . . The option to be declared as soon as shippers announce their inability to ship. . . ." The sellers had previously purchased 200 tons of that commodity from sellers in Egypt who held a valid but withdrawable export licence from the Egyptian Government. On 12th December, 1950, the export of all cotton-seed oil was prohibited by the Egyptian Government. On 3rd January, 1951, the licence granted to the original sellers was renewed. On 17th February the export of cotton-seed oil was again prohibited and the prohibition continued until the end of April. On 22nd February the sellers notified the buyers of this. The buyers contended that the sellers were in default and claimed damages. On an award in the form of a special case stated by the Board of Appeal of the London Oil and Tallow Trades Association, McNair, J., gave judgment for the sellers. The Court of Appeal reversed his decision. The sellers appealed to the House of Lords.

VISCOUNT SIMONDS said that he agreed with the opinion which Lord Tucker would deliver. The appeal should be allowed with costs in the House of Lords and below.

LORD GODDARD agreed that the appeal should be allowed. The lengthy period it had taken to reach a final decision in this matter was in no way the fault of the courts.

LORD MORTON OF HENRYTON said that he agreed with the opinion of Lord Tucker. It was said for the buyers that a decision in favour of the sellers would lead to the result that if, for instance, sellers had arranged to ship goods in the first week of December and the prohibition of export had operated for that week and had then been lifted, the sellers would be entitled to an extension of two months. This, it was submitted, was unreasonable. It would certainly appear more logical to give only an extension equal in length to the period of delay, but the form issued by the association might be used in a large number of transactions differing widely in the length of the contract period. The appeal should be allowed and the order of McNair, J., restored.

LORD TUCKER said that the question was the meaning of the words "should the shipment be delayed by . . . prohibition of export . . . the time of shipment shall be extended by two months." His lordship was much influenced by the context in which they appeared. Sellers might be unable to use the vessel on which they intended to ship the goods and it was reasonable to provide, in such circumstances, for a fixed and definite period of extension, which would facilitate commerce, rather than to think only in terms of escape from breach or of impossibility of performance. The first sentence of the clause in question was designed and worded to meet such a situation. The use of the word "delay" in contrast to "prevent" was decisive in favour of the sellers. "Shipment be delayed" should not be construed as "shipment by the contract date be prevented." The words were designed to keep the contract alive, whereas the remainder of the clause provided for what was to happen when performance had eventually become impossible. *Force majeure* clauses were of different kinds and the words in the clause afforded little assistance in the interpretation of the words in question. His lordship preferred the construction adopted by McNair, J., and the Arbitration Appeals Committee to that of the Court of Appeal. This construction did not appear to have been considered unreasonable by business men with experience in the trade. McNair, J., said that if the parties had made use of the machinery of the court in January or February, 1951, the whole matter could have been disposed of in two or three months and the court could have given a declaratory judgment with possibly a delay of a week, or even while the contract was still running. His lordship associated himself with the judge's observations. The appeal should be allowed and the award restored.

LORD SOMERVELL OF HARROW was also in favour of allowing the appeal. Appeal allowed.

APPEARANCES: *Roche*, Q.C., and *Bateson* (*Thomas Cooper & Co.*); *Mocatta*, Q.C., and *John Donaldson* (*Harwood & Talham*).

[Reported by F. COWPER, Esq., Barrister-at-Law] **[1 W.L.R. 136**

LABOUR BOARD: DELEGATION OF DISCIPLINARY POWERS TO COMMITTEE OF LOCAL BOARD: WHETHER ULTRA VIRES

Vine *v.* National Dock Labour Board

Viscount Kilmuir, L.C., Lord Morton of Henryton, Lord Cohen, Lord Keith of Avonholm and Lord Somervell of Harrow

5th December, 1956

Appeal from the Court of Appeal ([1956] 1 Q.B. 658; 100 SOL. J. 73).

The appellant was a dock labourer employed in the reserve pool by the respondents, the National Dock Labour Board, under the scheme set up by the Dock Workers (Regulation of Employment) Order, 1947. On 29th October, 1952, he was allocated work with a company of stevedores, but failed to report to them, and the company lodged a complaint with the respondents. The complaint was heard by a disciplinary committee appointed by the local dock labour board who found the complaint true and, purporting to act under cl. 16 (2) (*c*) of the Order of 1947, gave him seven days' notice to terminate his employment with the respondents. His appeal to an appeal tribunal set up under the scheme was dismissed. In proceedings in the High Court he sought both damages and a declaration that his purported dismissal was illegal, *ultra vires* and invalid. Ormerod, J., awarded him £250 damages and a declaration that the action of the board was *ultra vires* and invalid. The Court of Appeal varied the order, holding that the purported dismissal was invalid, but that, in the circumstances, the damages were a sufficient remedy and a declaration should not be granted. The appellant appealed and the respondents cross-appealed.

VISCOUNT KILMUIR, L.C., said that cl. 17 (1) of the Order provided that: "The employment of a registered dock worker in the reserve pool who is available for work shall not be terminated except . . . (*b*) by the giving of seven days' notice in writing." It was submitted for the respondents that they had independent powers under cl. 17 which they could and did exercise through the disciplinary committee which acted on their behalf. That submission failed. Then it was contended that the local board could delegate their functions to the disciplinary committee. It was urged that the very idea was negatived because this was a quasi-judicial act. There was a judicial element here in the sense discussed in *R.* v. *Metropolitan Police Commissioner* [1953] 1 W.L.R. 1150, 1157, but that was not the end of the matter. One must consider the importance of the duty delegated. Here it was to consider whether a man would be outlawed from his occupation for life. The pair who would from time to time form the committee would always consist of one representative of the employers and one of the workers, but the duty in the scheme was too important to delegate unless there was an express power. His lordship reached the same conclusion when he considered who might delegate. The

duty was placed on the whole board. Cases might occur in which not only the man but his trade union and employers wanted a decision of the whole board. They were entitled to have it unless the scheme said otherwise. Further, if one allowed the principle of delegation, it was possible, though not probable or practicable, for the board to delegate its functions to a committee which was not a microcosm of itself but a body on which employers and employed were not equally represented. For these reasons delegation was not possible. The decision of the disciplinary committee was a nullity which, it was conceded, could not be cured by appeal. As to the striking out of the declaration made by Ormerod, J., however cautiously or sparingly the discretion to give a declaratory judgment was to be exercised, this was a case in which the judge was right to do so. Having regard to the background of this scheme, it was right that the court should declare the appellant's rights. The appeal should be allowed and the cross-appeal dismissed.

The other noble and learned lords agreed in this conclusion. Appeal allowed and cross-appeal dismissed.

APPEARANCES: *Foot*, Q.C., and *Kellock* (*White & Leonard*, for *Wells, Woodford & Ackroyd*, Southampton); *Brown*, Q.C., and *Willett* (*Bell, Brodrick & Gray*).

[Reported by F. COWPER, Esq., Barrister-at-Law] **[2 W.L.R. 106**

Court of Appeal

ESTOPPEL PER REM JUDICATAM: ORDINARY DOCTRINE NOT BINDING ON DIVORCE DIVISION: RULES TO BE OBSERVED IN DIVORCE PLEADINGS

Thompson *v.* Thompson

Denning, Hodson and Morris, L.JJ. 11th December, 1956

Interlocutory appeal from Collingwood, J., in chambers.

A wife who had left her husband issued a summons against him in the High Court under s. 23 of the Matrimonial Causes Act, 1950, alleging that he had been guilty of wilful neglect to provide reasonable maintenance for her. She alleged, *inter alia*, that he had treated her with cruelty, thereby causing her to leave the home. The husband denied cruelty and in turn alleged cruelty and desertion by the wife. After a full hearing the commissioner expressly rejected the wife's allegation of cruelty, held that she had not been justified in leaving her husband, and dismissed her summons. Later the husband presented a petition for divorce in which he alleged cruelty by the wife and asserted, *inter alia*, that she had falsely and maliciously sworn in the maintenance proceedings that he had treated her with cruelty. By her answer the wife denied cruelty and asked for a judicial separation on the ground of the husband's cruelty; and she repeated allegations and evidence rejected by the commissioner in the maintenance proceedings. The pleadings of both parties were prolix and offended many of the rules of pleading. The husband applied to the registrar for leave to strike out certain parts of the wife's answer (*a*) on the ground of estoppel *per rem judicatam* on the issue of cruelty, and (*b*) under R.S.C., Ord. 25, r. 4, and Ord. 19, r. 27. The registrar refused the application, and his refusal was upheld by the judge, who gave leave to appeal to the Court of Appeal. The husband appealed.

DENNING, L.J., said that if the ordinary principles of estoppel by *res judicata* applied to the divorce division, this wife would be estopped from raising in the divorce proceedings the issue of cruelty which had already been the subject of litigation before a court of competent jurisdiction in the maintenance proceedings. His lordship thought that those principles did apply, but subject to the important qualification that it was the statutory duty of the divorce court to inquire into the truth of a petition and of any counter-charge properly before it, and no doctrine of estoppel by *res judicata* could abrogate that duty of the court. Though in the present case it seemed at first sight that this wife should not be allowed to raise again in the divorce proceedings the allegations of cruelty which had all been thrashed out at great length in the maintenance proceedings, the trouble was that the husband, in his own petition, had charged the wife with perjury in the prior maintenance proceedings, and his charge was so comprehensive that in order to investigate it the court would have to go into her allegations all over again. The court should therefore allow a departure from a strict estoppel to enable the wife to keep her charges of cruelty in her answer. On the husband's application to strike out many parts of the wife's answer under the Rules of the Supreme Court, though the answer offended many of the rules of pleading, the trouble was that the petition was nearly as bad. The right course would be to put a stop to all the interlocutory proceedings and bring the present case on for trial as soon as possible before the commissioner who had tried the maintenance proceedings. This case showed how necessary it was to observe the rules of pleading. Pleadings should be confined to the material facts, for only so could they be kept within manageable bounds. The appeal should be dismissed, and the case tried as soon as possible.

HODSON, L.J., concurring in the result, said that the *ratio decidendi* in *Winnan* v. *Winnan* [1949] P. 174, that the rule of estoppel *per rem judicatam* did not apply because the subject of the litigation was not the same in the two proceedings, applied in the present case. The court in its divorce jurisdiction had duties to perform in the public interest, which were not paralleled in other litigation between parties, even when those parties were the same husband and wife who were subsequently engaged in divorce litigation. Following that decision, his lordship thought that the court should not strike out the allegation of cruelty put forward by the wife in divorce proceedings, on the ground that she had previously failed to establish the same charges in the maintenance proceedings.

MORRIS, L.J., also concurring, agreed that, on the whole, *Winnan* v. *Winnan* applied in the present case. It had to be borne in mind that it was only in perfectly clear cases that a pleading should at this stage be struck out on the basis of an estoppel. Further, the husband had here chosen to allege that his wife had made false charges of cruelty in the previous proceedings, and in view of that the wife must at least be entitled to defend herself. Appeal dismissed.

APPEARANCES: *Robert Boyd* (*Leonard Kasler & Co.*); *Harold Morris* (*Alec Woolf and Turk*).

[Reported by Miss M. M HILL, Barrister-at-Law] **[2 W.L.R. 138**

THEATRE: LIGENCE FOR SALE OF LIQUOR AND TOBACCO: PROXIMITY OF OTHER LICENSED PREMISES

R. *v.* Flintshire County Council County Licensing (Stage Plays) Committee; *ex parte* Barrett

Singleton, Jenkins and Parker, L.JJ.

18th December, 1956

Appeal from the Divisional Court ([1956] 1 W.L.R. 1415; 100 SOL. J. 839).

By s. 9 of the Theatres Act, 1843: "The . . . justices . . . shall make suitable rules for ensuring order and decency at the several theatres licensed by them within their jurisdiction . . ." Each year since its opening in 1901 a theatre in Rhyl, the Queen's Theatre, was licensed as a theatre. Rule 3 of the Theatrical Licences Rules, to which the annual licence was subject, provided that "no spirituous liquors, wine, ale, beer, porter, cider, perry or tobacco shall be sold or disposed of in the theatre," but that rule had each year been deleted from the conditions attached to the licence so that for over fifty years the theatre had been continuously licensed for the sale of intoxicating liquor and tobacco. There was no suggestion of any misconduct at the theatre and in February, 1956, application was made for the renewal of the theatrical licence in respect of the Queen's Theatre under the same terms and conditions as before, namely, with the deletion of r. 3. The county licensing committee for stage plays, having granted a theatrical licence in respect of another theatre in the district subject to compliance with r. 3, decided that, to be consistent and taking into account the fact that there were adequate drinking facilities at licensed premises near by, the Queen's Theatre should be granted a licence on similar terms. On an application by the manager of that theatre for an order of mandamus requiring the committee to hear and determine the application according to law, or alternatively to delete r. 3 from their order on the grounds, *inter alia*, that the committee, in imposing the prohibition, had been actuated by extraneous considerations, the Divisional Court refused the application. The applicant appealed.

SINGLETON, L.J., said that the view of the committee that they must be consistent if justice was to be done between applicants was not the right approach to the matter. Every application should be considered on its merits and should not

be refused merely because an earlier application had been refused. The Divisional Court had held themselves bound by two cases. In *R.* v. *West Riding of Yorkshire C.C.* [1896] 2 Q.B. 386 it was held justifiable to take into account the proximity of other drinking facilities, and that view appeared to have been upheld by the Court of Appeal in *R.* v. *Sheerness U.D.C.* (1898), 62 J.P. 563. It must not be thought that on an application for a new theatrical licence such a consideration should not be taken into account. But there were other important considerations in the present case. The management of the theatre had no reason to suppose that r. 3 would be imposed and had had no opportunity to be represented or to argue the matter. If such a change was to be made they should have been warned and given an opportunity for argument, as the imposition of r. 3 would involve a considerable loss of income. It was difficult to say that order and decency were promoted by compelling people to go outside to drink, especially when there had been no complaints during fifty years. The case was different from that of the other theatre, which had never been licensed. In view of the history of the matter, the committee should approach the matter afresh and the order should go. Appeal allowed.

JENKINS and PARKER, L.JJ., agreed. Order of mandamus.

APPEARANCES: *Edmund Davies*, Q.C., and *R. G. Waterhouse* (*George Thatcher & Son*, for *J. Kerfoot-Roberts, Son & Griffiths*, Holywell); *J. C. Llewellyn* (*Sharpe, Pritchard & Co.*, for *Hugh Jones*, Mold).

[Reported by F. R. DYMOND, Esq., Barrister at Law] **[2 W.L.R. 90**

Chancery Division

COVENANT BY PURCHASERS FOR THEMSELVES AND THEIR SUCCESSORS TO PAY FOR ROAD MAINTENANCE, ETC.: POSITIVE COVENANT NOT RUNNING WITH LAND: ENFORCEABILITY

Halsall and Others *v.* Brizell and Another

Upjohn, J. 29th November, 1956

Liverpool District Registry. Adjourned summons.

On 3rd May, 1851, 40 acres of land which afterwards became Cressington Park, Liverpool, were purchased by one Okell and Jeffrey for an estate in fee simple. This land was subsequently sold off by them in 174 building plots, but there remained vested in Okell and Jeffrey the roads and sewers built thereunder, made in the park, a promenade and sea wall. On the occasion of each conveyance on sale of a plot the purchasers entered into a number of covenants (the majority of which were restrictive) and these covenants were repeated in a deed of covenant dated 19th August, 1851, whose main object, however, was to declare trusts concerning the roads for the benefit of purchasers of plots and to provide for payment of the necessary expenses proportionately by the owners of plots in respect of the upkeep and maintenance of the roads and promenade, sea wall and sewers. The deed contained provisions for the owners of plots to meet and to decide what was an appropriate sum to be paid annually to defray the necessary expenses of the trustees in the upkeep of the roads, sewers, promenade and sea wall. The deed, which was made between the several owners of plots of the one part and Okell and Jeffrey of the other part, after reciting, *inter alia*, that Okell and Jeffrey were trustees for the several and respective persons parties thereto, provided: " . . . *Seventhly*. That each and every of them the said persons parties to these presents and his respective heirs executors administrators and assigns shall and will from time to time contribute and pay a due and just proportion in respect of the plot . . . of land in the said plan [drawn upon the deed] marked with his name . . . and of the dwelling-house on each such plot erected or to be erected in common with the owners of the several other plots of land described in the said plan of all costs charges and expenses " in maintaining and keeping in good repair the aforesaid roads, sewers, promenade and seal wall " for the common use convenience and advantage of the owners for the time being of the several plots of land described in the same plan and of the dwelling-houses erected or to be erected thereon . . . and that . . . [if] any of the said persons parties hereto of the first part or his or their respective heirs or assigns or owner or owners for the time being of plots inscribed on the said plan . . . or of the dwelling-house or dwelling-houses thereon erected who shall refuse or neglect to pay such proportionate share of such costs charges and expenses the said " Okell and Jeffrey " or the survivor of them or his heirs executors administrators or assigns or other the trustee or trustees for the time being under these presents " should have a right to distrain " in the same manner as landlords are authorised to do for rent in arrear . . ." In 1931 one Finney purchased for an estate in fee simple a plot and dwelling-house built thereon, situate in Cressington Park, and the premises were conveyed to him subject to the covenants contained in the deed of 1851 so far as " they related to and affected the said house and land and were subsisting and enforceable and capable of taking effect." Subsequently Finney let the house to five separate tenants and it was at the present time so let. Until 1950 it was the practice at the annual general meeting of proprietors to levy an equal sum per plot upon the owners to defray the cost of maintaining the roads, sewers, promenade and sea wall, and Finney, and subsequently his executors, had paid such calls. But in that year and in ensuing years a resolution was passed empowering the trustees to make additional calls in respect of any plot the dwelling-house on which had been divided into two or more separate flats or dwellings. Pursuant to this resolution additional calls were made on the defendants, Finney's executors, who had declined to pay them. The plaintiffs, the present trustees of the deed, issued the present summons for determination of the questions whether (*a*) in so far as the deed of 1851 purported to make the successors of the original contracting parties liable to pay calls, was it valid and effectual at all; (*b*) if so, was the resolution of 1950 imposing additional calls a valid resolution.

UPJOHN, J., said that the case gave rise to two questions. First, in so far as the deed of 1851 purported to make the successors of the original contracting parties liable to pay calls, was it valid and enforceable at all? He (his lordship) thought that this much was plain: that the defendants could not be sued on the covenants contained in the deed for at least three reasons. First, a positive covenant in the terms of the seventh covenant did not run with the land. Secondly, these particular provisions with regard to the payment of calls plainly infringed the rule against perpetuities. Of course, these parties were not parties to the contract. Finally, it was conceded that the provision for distraining on failure to pay rent was not valid. A right to distrain could only be annexed to a rent charge which this certainly was not. But it was conceded that it was ancient law that a man could not take benefit under a deed without subscribing to the obligations thereunder: see the observations of Lord Cozens-Hardy, M.R., on Co. Litt. 230*b* in *Elliston* v. *Reacher* [1908] 2 Ch. 665, 669. If the defendants did not desire to take the benefit of this deed, for the reasons he (his lordship) had given, they could not be under any liability to pay the obligations thereunder. But, of course, they did desire to take the benefit of this deed. They had no right to use the sewers which were vested in the plaintiffs and they had no right, apart from the deed, to use the roads of the park which led to their particular house therein. The defendants could not rely on any way of necessity nor any right by prescription. Therefore, in his lordship's view the defendants could not, if they desired to use this house, as they did, take advantage of the trusts concerning the user of the roads contained in the deed and the other benefits created by it without undertaking the obligations thereunder. Upon that principle they were bound by this deed, if they desired to take its benefits. The second question was this: upon the true construction of the deed was the resolution passed in 1950 a valid resolution. In his (his lordship's) opinion it was not, for the reason that the deed contemplated payments in " a due and just proportion " relative to the plot or plots as such, and not to the user of the plots.

Declaration accordingly.

APPEARANCES: *W. L. Blease* (*William Rudd, Freeman and Getley*, Liverpool); *C. A. Settle* (*Cunliffe and Mossman*, for *G. H. Hindley & Co.*, Liverpool).

[Reported by J. A. GRIFFITHS, Esq., Barrister-at-Law.] **[2 W.L.R. 123**

Probate, Divorce and Admiralty Division

HUSBAND AND WIFE: DIVORCE: FAILURE TO PAY SCHOOL FEES UNDER MAINTENANCE ORDER: NO RIGHT OF ATTACHMENT

Farrant *v.* Farrant

Sachs, J. 19th December, 1956

Application for attachment.

After the dissolution of a marriage, the husband was ordered to pay maintenance for the wife and children of the marriage, and it was further ordered that the husband " do pay the school fees of the three younger children at their present school." The

husband made no payments of maintenance under the order. The wife issued a summons to attach the husband for contempt of court in failing to pay the school fees under the order.

SACHS, J., said that on the question whether there was any jurisdiction to entertain the application for attachment, s. 4 of the Debtors Act, 1869, commenced by enacting: "With the exceptions hereinafter mentioned, no person shall, after the commencement of this Act, be arrested or imprisoned for making default in payment of a sum of money." Those words were reflected in R.S.C., Ord. 42, r. 7. None of the exceptions stated in the Act applied to the present case, and accordingly the sole question was whether the default, if any, on the part of the husband constituted "a default in the payment of a sum of money." The matter had to be decided by looking at the substance of the matter in the light of what was intended when the Debtors Act, 1869, was enacted. As regarded these school fees it seemed clear that in substance the husband's obligation was to pay a certain sum when it had been ascertained. The moment that sum had been ascertained his obligation was clearly to pay money, and any default on his part was in truth a "default in payment of a sum of money" within the meaning of s. 4. Thus the court had, in the present case, no power to order a writ of attachment to issue; and no useful purpose could accordingly be served by going into the merits of the case. The wife had sought to employ a procedure of a penal nature which impinged on the liberty of the subject; unless, therefore, she could strictly establish that she was entitled to avail herself of that procedure her application must fail. Application dismissed.

APPEARANCES: *K. Bruce Campbell* (*Langlois, Harding & Co.*).

[Reported by Miss M. M. HILL, Barrister-at-Law] **[2 W.L.R. 134**

Courts-Martial Appeal Court

MILITARY LAW: FRAUDULENT MISAPPLICATION OF "SERVICE PROPERTY": WHETHER SERGEANTS' MESS PROPERTY INCLUDED

R. *v.* Nicholson

Lord Goddard, C.J., Hilbery and Slade, JJ. 11th December, 1956

Appeal against conviction.

The Army Act, 1881 (as re-enacted), provides by s. 17 punishment for any person subject to military law who "being charged with or concerned in the care and distribution of any public or service property, steals, fraudulently misapplies or embezzles the same . . ." and is convicted of such offences by court-martial. By s. 190 "'service' when qualifying . . . property, means belonging to, or connected with Her Majesty's military forces . . ." The appellant, a soldier formerly employed as a caterer in a sergeant's mess, was convicted by court-martial of five offences of fraudulently misapplying "service property," contrary to s. 17. The appellant petitioned to have the convictions quashed on the ground that the term "service property" did not include mess property, to which the charges related. The petition was rejected. He appealed.

SLADE, J., said the definition was amply wide enough to cover mess property. Appeal dismissed.

APPEARANCES: *Peter Lewis* (*Registrar, Court of Criminal Appeal*); *E. Garth Moore* (*Director of Army Legal Services*).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law] **[1 W.L.R. 146**

IN WESTMINSTER AND WHITEHALL

STATUTORY INSTRUMENTS

Acute Rheumatism (Amendment) Regulations, 1957. (S.I. 1957 No. 8.)

Coal Industry Nationalisation (Interim Income) (Rates of Interest) Order, 1957. (S.I. 1957 No. 7.)

Coastal Flooding (Acreage Payments) Scheme, 1957. (S.I. 1957 No. 1.) 5d.

County of Inverness (Loch A'Chapuill, North Uist) Water Order, 1956. (S.I. 1956 No. 2109 (S. 102).) 5d.

Family Allowances and National Insurance Act, 1956 (Commencement) (No. 2) Order, 1956. (S.I. 1956 No. 2107 (C. 22).)

London and Great Yarmouth Trunk Road (Colchester Link Road) Order, 1956. (S.I. 1956 No. 2118.) 5d.

Milk and Dairies (Scotland) Amendment Order, 1956. (S.I. 1956 No. 2110 (S. 103).)

National Insurance (Married Women) Amendment Regulations, 1956. (S.I. 1956 No. 2108.) 6d.

Oxford—Northampton—Stamford—Market Deeping Trunk Road (Oxford North-Western By-Pass) Order, 1956. (S.I. 1956 No. 2104.) 5d.

Police Pensions (Scotland) (No. 3) Regulations, 1956. (S.I. 1956 No. 2111 (S. 104).) 8d.

Retention of Cables, Main and Pipe Under a Highway (Nottinghamshire) (No. 3) Order, 1956. (S.I. 1956 No. 2120.) 5d.

Retention of Cables Under a Highway (Lincolnshire—Parts of Lindsey) (No. 1) Order, 1956. (S.I. 1956 No. 2119.) 5d.

Road Traffic Act, 1956 (Commencement No. 3) Order, 1957. (S.I. 1957 No. 3 (C. 1).) 5d.

This order fixes 1st March, 1957, for the coming into operation of the provisions of the Road Traffic Act, 1956, affecting traffic signs (i.e., ss. 35, 37 and 38 and repeals of earlier provisions on this subject), and 1st April, 1957, for the coming into operation of s. 36 and Sched. V, which provide for experimental traffic schemes in London.

Safeguarding of Industries (List of Dutiable Goods) (Amendment No. 12) Order, 1957. (S.I. 1957 No. 2.) 5d.

Stopping up of Highways (Buckinghamshire) (No. 12) Order, 1956. (S.I. 1956 No. 2115.) 5d.

Stopping up of Highways (County of Southampton) (No. 4) Order, 1956. (S.I. 1956 No. 2116.) 5d.

Stopping up of Highways (County of Southampton) (No. 5) Order, 1956. (S.I. 1956 No. 2117.) 5d.

Stopping up of Highways (Great Yarmouth) (No. 1) Order, 1956. (S.I. 1956 No. 2100.) 5d.

Stopping up of Highways (Kent) (No. 21) Order, 1956. (S.I. 1956 No. 2085.) 5d.

Stopping up of Highways (Kent) (No. 25) Order, 1956. (S.I. 1956 No. 2101.) 5d.

Stopping up of Highways (Leicestershire) (No. 20) Order, 1956. (S.I. 1956 No. 2086.) 5d.

Stopping up of Highways (London) (No. 47) Order, 1956. (S.I. 1956 No. 2102.) 5d.

Stopping up of Highways (Shropshire) (No. 6) Order, 1956. (S.I. 1956 No. 2121.) 5d.

Stopping up of Highways (Staffordshire) (No. 9) Order, 1956. (S.I. 1956 No. 2103.) 5d.

Stopping up of Highways (Stockport) (No. 3) Order, 1956. (S.I. 1956 No. 2096.) 5d.

Wages Regulation (Keg and Drum) Order, 1957. (S.I. 1957 No. 6.) 6d.

Winchester—Preston Trunk Road (Meaford and Darlaston, near Stone, Diversions) Order, 1956. (S.I. 1956 No. 2106.) 5d.

Winchester—Preston Trunk Road (Oxford Southern and Western By-Pass) Order, 1956. (S.I. 1956 No. 2105.) 10d.

[Any of the above may be obtained from the Government Sales Department, The Solicitors' Law Stationery Society, Ltd., 21 Red Lion Street, London, W.C.1. The price in each case, unless otherwise stated, is 4d., post free.]

Mr. John Albert Holmes, solicitor, of Shifnal, Shropshire, left £74,264 (£73,842 net).

Mr. John Frederick Thompson, solicitor, of Stanhope, Co. Durham, left £20,007 (£12,074 net).

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal".]

Parking outside Private Premises

Sir,—Being the owner of a car but not a house I have read with interest the articles in your journal seeking to establish the right of frontagers to deflate my tyres and break my windows whenever I park my car. It occurs to me, however, that there may be a different approach to this problem.

The roads of to-day are primarily made to carry mechanically propelled vehicles. As car parks are inadequate, vehicle owners must from time to time stop on these roads. Where such stopping is likely to cause congestion to the public the authorities usually erect signs saying so and ordering no parking or parking for limited times only. I suggest that the motorist should be entitled to assume that in unmarked zones he is free to park.

Some people do not object to having cars parked outside their houses; they hope that neighbours will conclude that they attract wealthy callers. Others apparently wish to keep the adjoining piece of road free because of their self esteem or their bad nerves or some other reason.

I suggest that these people should be allowed that privilege upon payment of a tax adequate not only to pay for an appropriate sign but also to swell the Exchequer and so relieve the heavy taxes now imposed on motorists.

Leicester. C. D. Geach.

Licensing Notices

Sir,—May we suggest that there are two points of fairly frequent occurrence in practice which might usefully have been mentioned in your article on Licensing Notices at 100 Sol. J. 951.

The requirements which the author states as applicable to service of notice where a licence is to be surrendered are also applicable in the case of an ordinary removal, namely, that a copy of the notice must be served on the registered owner of the premises from which the licence is to be removed and upon the holder of the licence to be removed, unless he is in fact the applicant.

It would also have been helpful to deal with the question who should be the applicant in various cases, i.e., who should give the notices. In an ordinary removal it should be the person who wishes to hold the licence when removed: in the case of a special removal, on the other hand, it is generally accepted that it should be the holder of the licence which is to be removed. Other cases do not generally present difficulty.

Knapp-Fisher, Wartnaby & Blunt.

London, S.W.1.

POINTS IN PRACTICE

Conveyance by Personal Representatives—Whether Reference to Statutory Powers Necessary

Q. I am acting for both Mr. and Mrs. *A*, the purchasers of a property, Blackacre, and also for Mr. and Mrs. *B*, the vendors thereof. Blackacre was conveyed to Mr. and Mrs. *B* in 1951 by the two personal representatives of the late Mr. *C*, who had purchased the property in 1916 and had died intestate in 1946. The recitals in the conveyance to Mr. and Mrs. *B* are in the usual form, but the deed then proceeds: "Now this Deed witnesseth as follows: 1. The vendors as personal representatives of the intestate hereby convey unto the purchasers All that . . . etc." The conveyance as drawn would appear to me to transfer validly the legal estate to the purchasers, Mr. and Mrs. *B*, but I notice that the relevant forms in Butterworths' Encyclopædia of Forms and Precedents, 3rd ed., all add the words "and in exercise of their statutory powers" before the parcels, and I should accordingly welcome your comments as to whether the conveyance to Mr. and Mrs. *B* has effectually vested the legal estate in Mr. and Mrs. *B* or not.

A. We are quite confident that the conveyance has effectually vested the legal estate in Mr. and Mrs. *B* notwithstanding the omission of any reference to the statutory powers of personal representatives. Although convenient, such a reference is not necessary. There is a precedent in Prideaux, 24th ed., vol. I, p. 594, which omits any such reference.

Local Land Charges—Desirability of Search within Fourteen Days of Contract

Q. A local land charge search made on 4th February, contract 14th March and completion of purchase in June. Should another search have been made immediately previous to the date of contract and another search immediately before the completion?

A. In our opinion a further search should have been made before contract. Most solicitors endeavour to have searches within fourteen days of contract. The Law of Property (Amendment) Act, 1926, s. 4 (2) gives protection if the search is made within fourteen days of "completion". There is a difference of opinion whether the making of a contract is equivalent to completion for this purpose but the search should certainly not be more than fourteen days before contract. If a search is made immediately before contract, it is usually regarded as unnecessary to make another before completion. Most standard forms of contract throw the risk of anything registered between contract and conveyance on the purchaser, so there is not likely to be anything he can do even if further entries are shown by a search immediately before completion. See the comment in Emmet on Title, 14th ed., vol. 1, p. 593.

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, 21 Red Lion Street, London, W.C.1.

They should be **brief, typewritten in duplicate,** and accompanied by the name and address of the sender **on a separate sheet,** together with a **stamped addressed envelope.** Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all.

"THE SOLICITORS' JOURNAL," 17th JANUARY, 1857

On 17th January, 1857, the Solicitors' Journal said of law reform: "The solicitor and his client have, we believe, an equal interest in advancing legal reform; and whatever changes of law and practice are beneficial to the one will, in the long run, prove salutary to the other. We firmly maintain . . . this principle; and so long as it is kept in mind, there will be no room for extravagant alarm as to the effect upon the interests of solicitors of possible alterations in the course of business. We hold it to be absolutely certain that public and professional advantage are identical and that any measure which promotes the one must also advance the other. To proclaim that the interest of the solicitor is antagonistic to that of all the world besides appears to us, in the first place, to be manifestly untrue; and, secondly, to be singularly rash. If ever a question could possibly arise on which the general good demanded one course of legislation, and the good of the legal profession another . . . we believe the national resolve would overpower the opposition of a class."

NOTES AND NEWS

Honours and Appointments

Mr. GORDON RAMAGE, assistant solicitor to the Borough of Walthamstow, has been appointed deputy town clerk of Gravesend.

Mr. CYRIL RILEY, deputy town clerk of Dunstable, has been appointed clerk to Knaresborough Urban District Council in succession to Mr. W. E. BROWN, who is to take up a similar post at Melton Mowbray.

Personal Notes

After thirty-six years on the board of directors, nineteen of which were spent as chairman, Mr. Charles James Band, solicitor, of Coventry, is now retiring from the Standard Motor Company, Ltd. Although 82 years of age, Mr. Band still attends his office daily.

Miscellaneous

Applicants for Silk who wish their names to be considered for the next list of recommendations should send their applications to the Lord Chancellor's Office before Friday, 22nd February, 1957. Those who have already made applications should renew them before that date.

In our issue of 5th January it was inadvertently stated that Mr. Ambrose Lace, one of the original directors of the Law Newspaper Company, Ltd., was the founder of the firm Laces and Co., Liverpool. This was not so, the firm having come into existence during the 18th century.

DEVELOPMENT PLANS

HALIFAX COUNTY BOROUGH DEVELOPMENT PLAN (AMENDMENT No. 1), 1957

The above amendment to the county borough of Halifax development plan was on 4th January, 1957, submitted to the Minister of Housing and Local Government for approval. The said Amendment No. 1 relates to land situate within the county borough of Halifax, bounded by St. James Road, North Parade, Orange Street and Great Albion Street. A certified copy of Amendment No. 1 as submitted for approval has been deposited for inspection at the Borough Engineer's Office, Crossley Street, Halifax. The copy of Amendment No. 1 so deposited is available for inspection free of charge by all persons interested at the place mentioned above between 10 a.m. and 12.30 p.m. and 2 p.m. and 5.30 p.m. on weekdays except Saturdays, and on Saturdays between 10 a.m. and 12 noon. Any objection or representation with reference to Amendment No. 1 may be sent in writing to the Secretary, Ministry of Housing and Local Government, Whitehall, London, S.W.1, before 18th February, 1957, and any such objection or representation should state the grounds on which it is made. Persons making any objection or representation may register their names and addresses with the Halifax County Borough Council and will then be entitled to receive notice of the eventual approval of Amendment No. 1.

COUNTY BOROUGH OF HASTINGS DEVELOPMENT PLAN

On 18th December, 1956, the Minister of Housing and Local Government amended the above development plan. A certified copy of the plan as amended by the Minister has been deposited at the Town Hall, Queen's Road, Hastings. The copy of the plan so deposited will be open for inspection free of charge by all persons interested between 9 a.m. and 5 p.m. from Mondays to Fridays and 9 a.m. and 12 noon on Saturdays of each week. The amendment became operative as from 5th January, 1957, but if any person aggrieved by it desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the making of the amendment, he may, within six weeks from 5th January, 1957, make application to the High Court.

WEST RIDING OF YORKSHIRE COUNTY DEVELOPMENT PLAN

Proposals for additions to the above development plan were on 20th December, 1956, submitted to the Minister of Housing and Local Government. The proposals relate to land situate within the under-mentioned districts :—

1. *Districts principally affected*

Boroughs of Goole and Ossett.

Urban Districts of Barnoldswick, Conisbrough, Darton, Dodworth, Earby, Horbury, Ilkley, Mexborough, Otley, Queensbury and Shelf, Rothwell, Sowerby Bridge and Stanley.

Rural District of Thorne.

2. *Districts slightly affected by the above-mentioned proposals*

Boroughs of Batley, Castleford, Morley and Ossett.

Urban Districts of Aireborough, Elland, Hebden Royd, Mexborough, Normanton, Ripponden and Royston.

Rural Districts of Doncaster, Goole, Penistone, Rotherham, Skipton, Wakefield and Wharfedale.

A certified copy of the proposals has been deposited for public inspection at the County Planning Office, 71 Northgate, Wakefield, and at each of the Area Planning Offices in the county, the addresses of the latter being as follows :—

County Divisional Offices, Water Street, Skipton.
Salisbury Buildings, Albert Street, Harrogate.
35 Standard House, Half Moon Street, Huddersfield.
22 Market Place, Pontefract.
The Old Vicarage, Vernon Road, Worsbrough, near Barnsley.
County Council and Divisional Offices, Station Road, Doncaster.

Certified extracts thereof so far as they relate to the above-mentioned districts have also been deposited for public inspection at the offices of those local authorities principally affected. The maps or extracts of the proposals so deposited together with copies of relevant extracts of the plan are available for inspection free of charge by all persons interested at the places mentioned above between the hours of 9 a.m. and 5 p.m. each weekday (Saturdays 9 a.m. and 12 noon). Any objection or representation with reference to the proposals may be sent in writing to the Secretary, Ministry of Housing and Local Government, Whitehall, London, S.W.1, before 28th February, 1957, and any such objection or representation should state the grounds on which it is made. Persons making an objection or representation may register their names and addresses with the County Council of the West Riding of Yorkshire by letter addressed to the Clerk of the County Council, and will then be entitled to receive notice of any amendment of the plan made as a result of the proposals.

The University of London, King's College (Faculty of Laws), announces five lectures to be given on 18th, 25th February, 4th, 11th and 18th March, at 5 p.m., by G. I. A. D. Draper, LL.M., on "The Geneva Conventions of 1949 for the Protection of War Victims and Their Place in the Law of War." At the first lecture the chair will be taken by Sir Hersch Lauterpacht, Q.C., M.A., LL.D., F.B.A., Judge of the International Court of Justice, The Hague. Admission will be free, without ticket.

The Mansfield Law Club, City of London College, announces the following programme for Lent Term, 1957 : 24th January : "The State, the Citizen and the Law," by the Rt. Hon. the Lord Chancellor, Viscount Kilmuir ; 31st January : "The New Law of Copyright," by Mr. J. P. Eddy, Q.C. ; 14th February : "Modern Problems of Banking Law," a discussion. In the Chair : Mr. Maurice Megrah, Barrister-at-Law, secretary to the Institute of Bankers ; 28th February : "Company Law and Practice," a discussion. On the platform : Mr. Clive M. Schmitthoff, LL.D., Barrister-at-Law, M.I.Ex., and Mr. W. F. Talbot, F.C.I.S., F.T.I.I. ; 14th March : "The British Commonwealth," by Mr. C. Locke White, LL.B., Barrister-at-Law ; and 28th March : "Law and Morals of Tax Avoidance," by Mr. R. A. Bowman, F.A.C.C.A., F.T.I.I. The meetings will be held at 6 p.m. at the City of London College, Moorgate, E.C.2. Tea will be available for members and their guests introduced by them, from 5.30 p.m. onwards. Visitors are welcome at all meetings.

The London School of Economics and Political Science (University of London) announces a lecture to be given on 22nd January, at 5 p.m., by Harold J. Berman, M.A., LL.B., Professor of Law in Harvard University, on " Soviet Law and Government." The chair will be taken by L. B. Schapiro, LL.B., Lecturer in Soviet Studies in the University of London. Admission will be free, without ticket.

A lecture entitled " The Sources of Law in Ancient India and Rome " will be given by Professor R. Lingat, D. en Droit, on 4th March, at the School of Oriental and African Studies, University of London, W.C.1, at 5.30 p.m. The chair will be taken by Professor A. Gledhill, M.A., Professor of Oriental Laws in the University of London. Admission will be free, without ticket.

OBITUARY

MR. R. H. BARLOW

Mr. Robert Henry Barlow, solicitor, of Middlesbrough, died on 4th January, aged 76. He was admitted in 1923.

MR. W. H. DAY

Mr. Walter Hanks Day, retired solicitor, and for many years Borough Clerk of the Peace and Coroner of Maidstone, Kent, died on 8th January, aged 89. He was admitted in 1890.

MR. F. M. HAROLD

Mr. Fred May Harold, retired solicitor, of Rotherham, Yorks, died recently, aged 77. He was admitted in 1924.

MR. G. A. LIPSCOMBE

Mr. George Alfred Lipscombe, solicitor and deputy magistrates' clerk, of Weymouth, died recently, aged 44. He was admitted in 1937.

ALDERMAN T. J. W. TEMPLEMAN

Alderman Thomas John Wembridge Templeman, C.B.E., retired solicitor, and a former Mayor and Sheriff of Exeter, died on 6th January. He was chairman of the police committee of the Association of Municipal Corporations and was admitted in 1908.

COLONEL C. C. WILLIAMS

Colonel Charles Chieveley Williams, O.B.E., T.D., solicitor, and for the past four years Registrar of Bournemouth County Court, died on 30th December, aged 54. He was for many years clerk to Wimborne Urban District Council.

SOCIETIES

THE UNION SOCIETY OF LONDON announces the following debates which will be held in the Common Room, Gray's Inn, at 8 p.m.: 23rd January—" That the Government has been a complete failure "; 30th January—" Seuls les sots mepriment l'etiquette; elle simplifie la vie "; and 6th February—" That science is as good a basis as the humanities for higher education."

THE UNITED LAW DEBATING SOCIETY announces the following debates for February, 1957, to be held in the Common Room, Gray's Inn, at 7.15 p.m.: 4th February—" This house welcomes the establishment of comprehensive schools "; 11th February—" This house regrets the entry of women into the professions "; 18th February—" This house views with discomfort the continual explosion of nuclear bombs "; 25th February—" This house prefers instinct to reason as a guide to human conduct," a joint debate with the British Council Students' Debating Group.

SOLICITORS BENEVOLENT ASSOCIATION

The annual general meeting of the Solicitors Benevolent Association was held on 7th November at 60 Carey Street. In presenting the annual report and accounts, the chairman, Mr. B. S. Pell, referred to the fact that there were 280 beneficiaries during the year and the grants made totalled £32,261 14s. 8d. Though these figures were impressive the spendable income had been insufficient to meet the grants so that the gap had to be met from legacies. The present membership of 8,137 was disappointing as there were nearly 18,000 solicitors who held practising certificates. The chairman outlined plans being adopted to deal with income, membership and organisation. These included increasing the life subscription to twenty guineas and enlarging the investment powers of the association so as to obtain an increased return. As it was felt that the best method of obtaining new members was by personal approach a circular letter had been sent to all London members asking each member to try and obtain at least one new member. The provincial Law Societies had been asked to try and obtain new members in the country. Each provincial Law Society not directly represented by a provincial director was being invited to nominate a person to act as a representative of the association for that society.

The chairman referred to the possibility of the association, at some future date, wishing to set up a Home for the beneficiaries or to acquire places in a Home run by some other association, and that it had been decided to seek power to do this. Mention was also made of certain negotiations which were then in progress between the Solicitors Benevolent Association and the Law Association to consider whether, and if so how, the two associations might be amalgamated.

A resolution to make certain alterations to the rules and regulations of the association so as to give effect to the matters set out in the directors' report was put to the meeting and passed unanimously.

In the annual report reference was made to the many new members which had been obtained by the personal efforts of the immediate past president, Sir Charles Norton. Thanks were rendered to The Law Society for its continued help and interest in the association and for its generous donation of one hundred guineas, and to the Worshipful Company of Solicitors of the City of London, the Society of Provincial Notaries Public and other benefactors, as well as the following provincial Law Societies which had made donations during the year: Bedfordshire, Birmingham, Blackpool and Fylde District, Bury and District, Cambridgeshire and District, Cardiff and District, Carlisle and District, Chester and North Wales, Chorley, Cornwall, Croydon and District, Devon and Exeter, Dorset, Eastbourne, Gloucestershire and Wiltshire, Gravesend and District, Grimsby and Cleethorpes, Hampshire, Harrogate and District, Isle of Wight, Kent, Leicester, Manchester, Merthyr Tydfil and Aberdare Incorporated, Mid-Essex, Mid-Surrey, North Lonsdale, Northamptonshire, Shropshire, Southend-on-Sea and District, Suffolk and North Essex, Tunbridge Wells, Tonbridge and District, West Surrey, Worthing.

The board of directors were re-elected, and were thanked for their services during the past year. The honorary auditor, Mr. John Venning, and the auditors, Messrs. Edward Moore and Sons, were re-appointed for the ensuing year. The appointment of Sir Dingwall Bateson, C.B.E., M.C., as honorary auditor for the ensuing year in succession to the late Mr. Ernest Goddard was confirmed.

The meeting passed a vote of thanks to the chairman for the valuable services which he had rendered to the association during his year of office.

At the monthly meeting of the board of directors which followed, Mr. Cyril Highway of Birmingham was elected chairman and Mr. Thomas G. Lund, C.B.E., vice-chairman for the ensuing year. Thirty-two applications for relief were considered, and grants totalling £3,615 were made, £453 of which was in respect of " special " grants for illness, holidays, clothing, etc.

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